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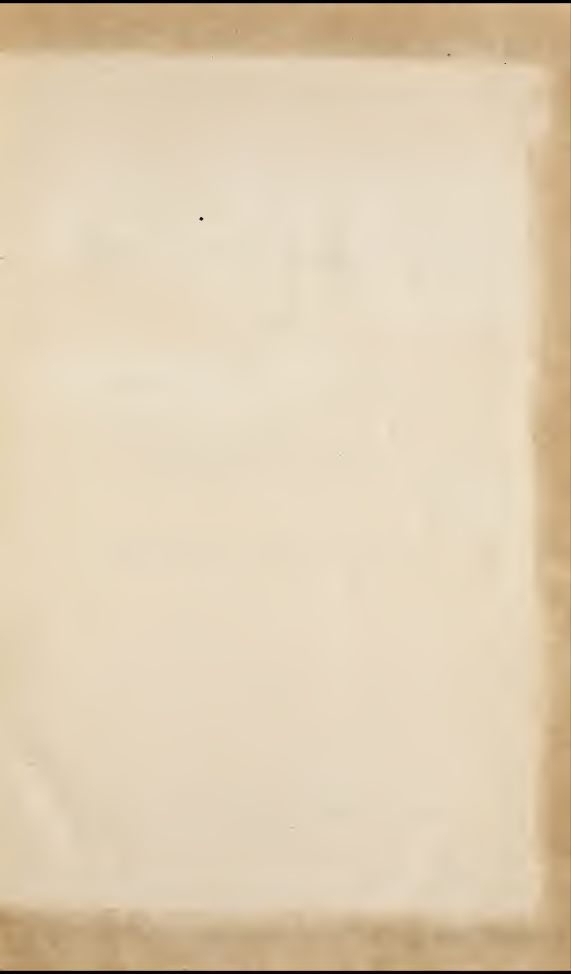
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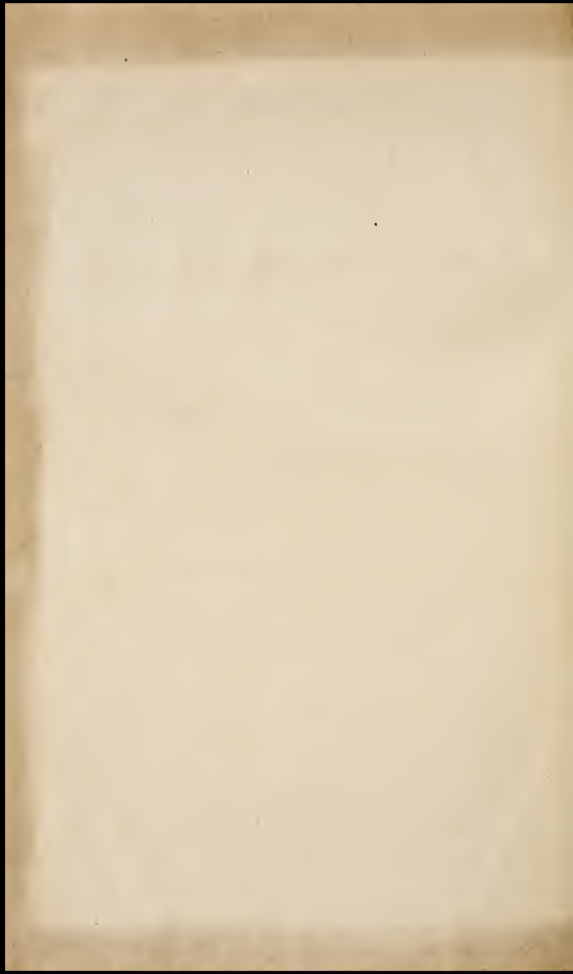
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REPORTS OF LAND CASES

DETERMINED IN THE

UNITED STATES DISTRICT COURT

FOR THE

NORTHERN DISTRICT OF CALIFORNIA.

JUNE TERM, 1853 TO JUNE TERM, 1856, INCLUSIVE.

BY

OGDEN HOFFMAN,

DISTRICT JUDGE.

VOLUME I.

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PREFACE.

THE accompanying volume contains all the opinions delivered by the Judge of the United States District Court for the Northern District of California, in land cases, during the time over which the Reports extend.

They were obtained by the Reporter, with the Judge's permission, from the files, and are published as originally prepared and delivered. There has also been added a list of the Governors of California from its first settlement, etc., together with a sketch of the early history of Upper California.

In the appendix will be found a carefully prepared table of all the claims presented to the Board of Commissioners, with the number of each on the docket of the Commissioners, and of the District Court to which it was appealed, and the corresponding number on the index of Jimeno; also the name of the claimant, of the original grantee, the date of the grant, and the name of the Rancho and of the Governor who granted it, the quantity claimed, the county in which it lies, a brief statement of the proceedings with regard to it before the Board, the District and Supreme Courts, the number of acres when surveyed, whether a patent has been issued, together with a full index of the names of Ranchos and of Claimants.

It is hoped the volume will be found useful to the Profession.

N. HUBERT.

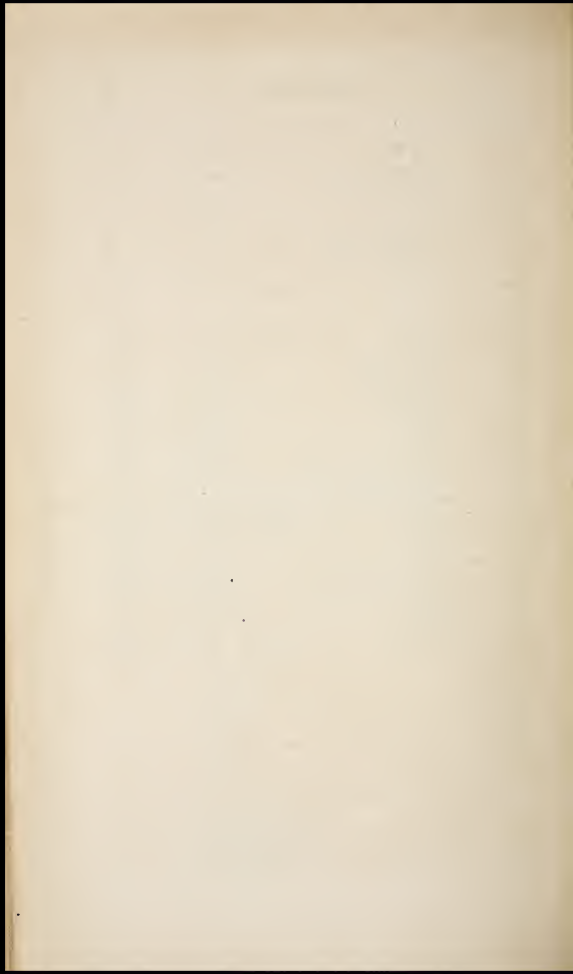


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REPORTS OF LAND CASES
DETERMINED IN THE
UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA.
JUNE TERM, 1853.

THE UNITED STATES, APPELLANTS, *vs.* CRUZ CERVANTES, CLAIMING THE RANCHO OF SAN JOAQUIN OR ROSA MORADA.

To constitute a definitively valid or complete title two things are necessary—first, a concession by the Governor; and secondly, the approval by the Territorial Deputation, or, in the event of their refusal, by the Supreme Government.

Where the condition of a grant, which had not been approved by the Deputation, required a house to be built and the land cultivated within one year from its date, and no house was built or cultivation made within six years: *Held*, that the claimant had, under the rules of decision laid down by the Supreme Court, no equities which entitled him to a confirmation.

Claim for a tract of land within boundaries supposed to contain two sitios of ganado mayor, granted to appellee on the first of April, 1836, by Nicolas Gutierrez, Superior Political Chief, *ad interim*, of California. The claim was confirmed by the Board of Land Commissioners. The United States appealed.

S. W. INGE, United States District Attorney, for Appellants.

JONES & STRODE, Attorneys for Appellee.

HOFFMAN, J.—This case comes up on appeal from the decree of the Board of Commissioners to ascertain and settle private land claims in California. Could I have consulted my inclinations, I should have refrained from expressing opinions upon any of these cases, and would willingly have contented myself with affirming *pro forma* every decision of either the former or the present Board, and remitted the case to that tribunal by whose decisions alone these questions will be finally determined. But I have not felt at liberty to shrink from this part of the duties imposed by law upon this Court, nor to withhold the expression of its opinions, however immaterial, as regards the final results, its decisions may be. If these opinions shall, on some points, differ from the conclusions to which the Board of Commissioners has in this case arrived, it is with the full knowledge that their opportunities for examination and consideration have been far greater than my own, and that in dissenting from them I may fall into error. Were the consequences of my decision more serious, it would not be without great regret that I should find myself led to a conclusion differing in any respect from the opinions of so able and learned a tribunal.

By the fifth article of the rules and regulations of November 21st, 1828, prescribed by the General Government, in pursuance of the sixteenth article of the general Colonization Law of 1824, it is provided "that grants to private persons or families shall not be held to be definitely valid without the *previous* consent of the Territorial Deputation, to which end the respective expedientes shall be forwarded to it."

In this case, no approval of the Territorial Deputation is shown.

It is clear, from the very terms of the law, that to constitute a "definitively valid" or complete title, two things were necessary,—first, a concession by the Governor; and secondly, the approval by the Territorial Deputation, or, in the event of their refusal, by the Supreme Government.

It is contended that the original grant or concession by the Governor passed a perfect title or estate in fee to the claimant, subject only to the condition that it might be annulled by the refusal of both the Territorial Deputation and the Supreme Government to confirm it.

I have been unable, after much consideration, to assent to this construction of the regulations of 1828.

The concession does not, on its face, purport to be an absolute grant; for the land is declared to be "the property of the petitioner, subject to the approval of the Deputation." The right of granting being by law vested in the Governor, with the approval of the Deputation, or, in case of their refusal, that of the Supreme Government, I do not perceive how, without such approval, the complete title can be deemed to have passed.

If the refusal of the Deputation is considered merely a condition subsequent, which on its happening would divest a fee previously vested, the effect attributed to it is precisely that of the other conditions in the grant, admitted to be conditions subsequent. But these conditions operated on an estate supposed to have become "definitively valid."

Can it be said that that which the law declares necessary to the "definitive validity" of a grant is identical in its effect with a condition which, on its happening, will divest an estate *already* "definitively valid?"

That the grant by the Governor had some validity is not denied. It was the performance of a part, perhaps the most important part, of the acts necessary to complete the title; but it was not the performance of all, nor did it purport to be. Until, then, either the Territorial Deputation or the Supreme Government had given their approval, the grant remained not "definitively valid," or in other words, inceptive and incomplete; and a confirmation and patent by the United States are necessary to pass the absolute title to the claimant.

Any other view of this question would, it seems to me, deprive the Deputation of the important functions entrusted to them. Their right was not merely a qualified right to take from a petitioner land already absolutely granted to him, but it was the right to say whether or not the land should be granted to him at all; and until they or the Supreme Government had consented to the grant, the absolute or complete title cannot be deemed to have passed out of the Mexican nation.

The title, then, of the claimant being found to be inchoate or im-

perfect, his right to a confirmation and perfection of it by the Government of the United States must be tested by the principles laid down in similar cases by the Supreme Court.

Had he gone on to perform the conditions, and confer the benefits on the Mexican nation, as stipulated for in his grant, no objection could be urged why this Government, succeeding, as it does, to all the rights and duties of Mexico, should not perfect his title. That the settlement and cultivation of the vacant lands of the Republic formed the sole consideration of these grants is not disputed; and in this particular case the ability of the petitioner to render this equivalent for his concession seems to have been the subject of particular investigation, for the Governor is at pains to inform himself whether or not the petitioner had, as he alleged, any stock to put on the land, or the means of getting any.

The grant bears date on the first of August, 1836—and is made on condition, among other things, that the petitioner shall within one year, at farthest, build on the land a house, which shall be inhabited.

It is subsequently provided that should he contravene these conditions, “he shall lose his right to the land, and it may be denounced by another.”

The juridical possession which the grant directs him to solicit of the respective Judge, was never applied for until the year 1841; and no occupation or cultivation of the land by him is distinctly shown until 1846, ten years after the grant. The witness Godey testifies that in 1846 he saw the claimant residing on the rancho; and adds, that the house he lived in seemed to be several years old.

Pacheco, the only other witness on this point, states that he does not exactly recollect the time when the claimant began to reside on his rancho, but thinks it was about two years after the revolution of Chico and Gutierrez.

So far, then, as appears, there was a total neglect on the part of the claimant to comply with any of the conditions of the grant for a period of from five to eight years.

If, then, we are right in regarding the title he has received only as inchoate or imperfect, the necessary authorities not having con-

curred in making the grant, the inquiry presents itself, has he a right to demand of the United States that they should go on and perfect it?

There is no doubt that under the treaty, as well as by the laws of nations, such title as the claimant had acquired when the sovereignty was changed, was secured to him as private property, and the question is, what was that right, according to the laws and usages of Mexico at the time of the cession?

If the title is to be decreed, and a patent awarded, it must be on the same grounds as those on which the Mexican authorities would have been bound to decree it had a perfect title been solicited from them. (*De Villemont vs. The United States*, 12 How. 267; *Glen vs. The United States*, 13 Id. 257.)

The rule as laid down in *The United States vs. Kingsley*, 12 Peters, 484, is, "that the United States succeeds to all those equitable obligations which we are to suppose would have influenced the former government to secure to its citizens their property, and which would have been applied by it in the construction of a conditional grant to make it absolute; and further, that the United States must maintain a right of property, under the treaty, by applying to it the laws and customs by which those rights were secured before the cession of the country, or by which an inchoate right of property would, by laws and customs, have become a perfect right."

The inquiry is not so much what would the Mexican authorities, had there been no change in the circumstances of the country, or in their policy, have in point of fact done, as what they were, by their laws and customs, and in equity and good conscience, bound to do. Were they bound to confirm and perfect the title of this claimant? or were they at liberty to consider his rights as abandoned and lost, and refuse to accept, after so long a delay, his performance of the conditions of his concession, and treat the land as having reverted to the public domain, to be disposed of as present circumstances or policy might require?

Grants or concessions of land upon condition have been repeatedly confirmed by the Supreme Court.

It will, it declares, liberally construe a performance of conditions,

precedent or subsequent, in such grants ; nor will it " apply, in the construction of their conditions, the rules of the common law. (*The United States vs. Kingsley, ubi supra.*)

Thus, where the full performance of the condition must have been a matter of indifference as well to the King of Spain as to the United States, after the cession of Florida—it appearing that a performance had been commenced within the time limited, the grant was confirmed. (*Arredondo's case, 6 Peters.*) So, when the grantee had in good faith began to build his mill (which was the condition of his grant)—expended five thousand dollars towards it—had his horses and negroes stolen, while his mill was being built—had his mill dam carried away by a freshet—rebuilt his mill in 1827, which was destroyed by fire the same year—and the year after built another, of seventy horse power—the Court determined that the claimant had shown a sufficient performance of the condition, *cy prés*—and the acts he had done amounted to a compliance with the condition, according to the equitable doctrines governing such cases. On the other hand, where, by the condition of the grant, one year was allowed for making the improvements required by the regulations, and three years for making an establishment on the premises, and the claimant never took possession of the land until long after the cession of the country, the Court rejected the claim, disregarding the excuse offered by him, that hostility of the Indians, and official duties, prevented him ; and observing that as to the first, he took his concession subject to that risk ; and as to the second, that he held his office when the concession was made, and knew its duties. The Court even went so far as to say, with reference to the condition, " that it was undoubtedly necessary that an establishment should be made within three years—such being the requirement of the concession, in concurrence with the regulations."

In *Boisdoré's case*, the consideration of the grant was, that a stock farm should be established on the land solicited, and that such an establishment was to be " for all the family " of the petitioner ; and on it he was to employ all his force of negroes. The evidence showed an occupation of the land for forty years ; that it had been cultivated, to some extent, from the date of the grant, and that

stock had been kept there, but that such occupation had been by only a single mulatto; and that the petitioner had abandoned the idea of taking his whole family to the place, and employing all his negroes there. The Court considered it altogether inadmissible that such trifling occupation, in utter neglect of Boisdoré's promises to the Spanish authorities and the duties imposed by his grant, fastened an equity on the conscience of the King of Spain to complete the grant. It may be proper to remark, however, that it is stated in the dissenting opinion of Mr. Justice McLean, that the grant was rejected by the majority of the Court for want of certainty in its calls. (11 How. 63.)

It is urged with much earnestness and ability by the counsel for the claimant, that the only penalty attached to a nonperformance of the conditions of the grant was that the land was liable to be denounced by another—and that upon such denouncement it might have been regranted, if then vacant; but that no denouncement having been made, nor the Mexican authorities availed themselves in any way of their right to treat the land as having reverted to the public domain, and the petitioner having gone on to perform the conditions, with the acquiescence of the Government, he ought not now to be disturbed. I am deeply impressed with the force of these considerations. But if the view taken of the effect of the absence of the approval of the Deputation be correct, the land cannot be deemed to have been at any time finally alienated by the Mexican authorities; and the question is not whether a forfeiture should be insisted on, but whether the United States are bound to complete a transfer of their property which has as yet been only partially made.

It cannot, I think, be denied that after the expiration of the year from the date of the grant, and up to the time when the claimant performed the conditions, the land, by Mexican law and usage, might have been denounced and regranted. Such was the express condition of the grant. But that condition also provides that in the event referred to, the petitioner shall lose his right to the land. Whether or not in the case of a complete and final grant the Mexican Government could only take advantage of the forfeiture by the process of "denouncement," it is not necessary to

inquire—for this is not a complete grant. It would seem far more reasonable to suppose that it could. The condition provides that the petitioner shall “lose his right to the land” in case of its violation. If, upon denouncement of the land, it could have been re-granted, it would seem that the Government must have had the right to make any other disposition of it which any change in their policy or circumstances might require. Whether such regrant or other disposition would have been made without a previous inquiry into the fact of forfeiture is not very clear.

By the eleventh article of the regulations of 1828, it is provided that the Governor shall designate to the new “*poblador*” a suitable time within which he shall occupy and cultivate the land under the conditions, and with the number of families stipulated for, with the understanding that if he shall not do so the grant shall be null. In this case, at least, it would seem that the title vested in the Government *ipso facto* on the happening of the breach. But the inquiry in the case at bar is immaterial, for the full title has never passed out of the Mexican Government; and the question is not whether the United States acquired, by the treaty, a right to enforce a forfeiture, but whether the claimant has a right to require this Government to complete his title. No facts appear upon the record which serve to explain or excuse the long delay of the claimant; nor is there any very distinct proof of the nature of the occupation he finally took, or at least of the extent of the cultivation or amount of expenditures made by him upon the land.

Had the Mexican Government, at the date of the cession of this country, found itself in the precise position of the United States, with its interests, its policy, and the circumstances of the country radically changed, it is more than doubtful whether it would or ought to have felt itself bound to complete this grant, as the United States are now urged to do. If there was no obligation upon them to do so, and they were at liberty to refuse or comply, we are in the same situation, and the confirmation of this title must be obtained from another department of this Government.

Were I at liberty to follow blindly the dictates of my own judgment, I might, perhaps, have confirmed this title. But governed as I am bound to be by the principles established by the Supreme

Court, I have been unable to resist the conviction that a confirmation of this claim would be a departure from the spirit, if not the letter of the rules of decision laid down in the more recent cases. If those rules are hereafter to be modified or departed from, it must be by the tribunal by which they were established. And if, in this case, the equities of the claimant can receive at its hands a more liberal construction and a more favorable consideration than I have felt at liberty to give them, no one will acquiesce in the result more cheerfully than myself.

Since the above was written, I have been informed by Señor Covarrubias, an intelligent Mexican gentleman of this country, that the revolution of Chico and Gutierrez occurred in the year 1836. The "revolution" seems to have been one of those transient and slight disturbances so common in this country, and more to be likened to the outbreak of a mob or a riot in a city than one of those historical events of which judicial notice could be taken. But assuming that the Court is judicially informed of the date of its occurrence, the claimant has still, under Pacheco's testimony, failed to comply with the conditions of his grant for more than one year after the expiration of the term limited for their performance; nor does he prove, allege, or pretend the slightest excuse for so doing.

But the testimony of Pacheco is inconclusive. That witness says he does not exactly recollect the time when claimant commenced residing on his rancho, but believes it was about two years after the revolution of Chico and Gutierrez.

The evidence, however, shows that judicial possession was not applied for till 1841, five years after the grant. Pacheco was one of the assisting witnesses on that occasion, and he does not say that at that time even the claimant had ever built a house or cultivated the land.

If the witness who, in 1846, saw a house on the rancho which seemed to be "several years old," is to be believed, the fair inference is that the house could not have been built before 1842 or 1843, six or seven years after the grant.

On the whole, I conclude that there having been no performance or attempt at performance until long after the expiration of the

United States v. Reading.

term limited, and no excuse being suggested or pretended, I am not at liberty, under the rulings of the Supreme Court, to confirm the imperfect title of the claimant.

Upon the other questions made in this case it is unnecessary to express an opinion.

THE UNITED STATES, APPELLANTS, v. PEARSON B. READING, CLAIMING THE RANCHO BUENAVENTURA.

WHEN the conditions of a grant have been performed *cy prés*, though no approva has been given by the Departmental Assembly, the claim is entitled to confirmation.

Claim for a tract of six square leagues of land confirmed by the Board of Land Commissioners, and appealed by the United States.

S. W. INGE, United States District Attorney, for Appellants.

V. E. HOWARD, for Appellee.

HOFFMAN, J.—Two objections to the confirmation of this claim are urged by the District Attorney.

1. That the claimant had no capacity to take, being a foreigner.
2. That the conditions of the grant have not been substantially complied with.

First. The grant itself recites that the claimant was a naturalized Mexican citizen, at the time it issued, and it is shown that letters of naturalization were, in fact, issued to him. No fraud in obtaining them is pretended to have been committed by the claimant. Whether or not he was strictly entitled to receive them by Mexican law, is immaterial, for that question having been passed upon by Mexican authority, and the claimant in fact naturalized, it cannot now be contended that he was not, at the time of receiving his grant, a naturalized Mexican citizen.

It is proper to observe that the proofs on this point were only furnished after the District Attorney had taken his objection.

Second. With respect to the performance of the conditions, the proof shows that in August, 1845, less than one year after the

date of the grant, the claimant went on the land, took possession, and selected a site for his house, which he left his servant to build. It was completed within a year, and inhabited until the person in charge was driven out by hostile Indians and the house burnt. A crop of wheat was raised on the land in 1845, and another in 1846; the latter was burnt with the house.

During the year 1845, Major Reading appears to have been called into service by General Sutter, in consequence of the political disturbances which then agitated the country. In 1846, he joined the Americans under Fremont, and continued in active service during the greater part of the year. In 1848, he returned to his rancho and has ever since resided on and cultivated it.

Under these circumstances, we look in vain for evidence of a willful abandonment of his grant, or even a neglect to perform substantially its conditions. The object of the Mexican Government in making grants undoubtedly was to secure the cultivation and settlement of their vacant lands, and that object was attained in this case. Even if the conditions of the grant be construed to require the personal residence of the grantee on the land, the excuses shown by him for his omission to do so, are such as should in equity be received. In the year 1845 he was unexpectedly called upon to perform public duties which he had no right to decline; and the reasons for his neglect in 1846, are certainly such as should receive the favorable consideration of this Government.

Had no effort been made by the claimant to comply with the conditions of his grant, or had his only excuse been the existence of obstacles which equally existed and were known to him when he undertook their performance, the ruling of the Supreme Court in the case of the *United States v. De Villemont*, and other cases, would have compelled me to reject this claim. But under the facts as proved, the case seems clearly within the principles laid down in *Sibbald's case*, (10 Pet. 313).

I think, therefore, that the partial performance of the conditions of this case within the time limited, and the excuses offered for the absence of full performance, are sufficient, under all the circumstances, to raise an equity in favor of the claimant, which entitles him to a confirmation.

THE UNITED STATES, APPELLANTS, *vs.* JOHN C. FREMONT, CLAIMING THE RANCHO OF LAS MARIPOSAS.

It is a sufficient severance from the public domain, when the grant itself designates by unmistakable natural boundaries the limits of the district within which it is to be located, and where the particular land granted is specified by name.

The time for making a settlement on the lands granted is limited to one year.

The danger from savages before and after the grant, is no excuse for not complying with that condition.

The claim was for ten square leagues of land granted to Juan B. Alvarado, and confirmed by the Board of Land Commissioners. The United States appealed.

S. W. INGE, United States District Attorney, for Appellants.

V. E. HOWARD, JONES & STRODE, and LOCKWOOD, TYLER & WALLACE, for Appellee.

This case came up on appeal from the Board of Commissioners for ascertaining and settling the private land claims in California, by whom the claim of the petitioner was confirmed.

The title of the claimant is derived by a mesne conveyance, the execution of which is not disputed, from Juan B. Alvarado.

The original petition of Alvarado upon which the grant issued, bears date February 22, 1844, and represents that being desirous of increasing his land and contributing to the spreading of agriculture and the industry of the country, he solicits the Governor, according to the Colonization laws, to grant him "ten leagues of land north of the river San Joaquin within the limits of the Sierra Nevada mountains, in the same direction as the river Chowchillas on the east, that of the Merced on the west, and the before mentioned San Joaquin, with the name of the Mariposas." He also represents that he is unable to present a plan or draft of said land, because it is on the confines of the wild Indians and a wilderness country.

On the twenty-ninth of February, 1844, the grant issued subject to the approval of the Departmental Assembly and upon the usual conditions. The land granted is thus described: "The tract of land

United States v. Fremont.

known by the name of Mariposas, to the extent of ten square leagues, within the limits of the Sierra Nevada, and the rivers known by the names of the Chowchillas, of the Merced, and the San Joaquin."

The approval of the Departmental Assembly was not obtained, nor does the grant appear to have been submitted to that body. The genuineness of the grant is not disputed.

Among the conditions of the grant are the following :

"3d. He shall solicit from the proper magistrate the juridical possession of the same, by virtue of this title, by whom the boundaries shall be marked : on the limits of which he (the grantee) shall place the proper landmarks."

"5th. The tract of land granted is ten square leagues as before mentioned. The magistrate who may give the possession shall cause the same to be surveyed according to the ordinance, the surplus remaining to the nation for the proper purposes."

No juridical possession was ever given by the magistrate, nor was the land surveyed during the existence of the former government.

It is objected by the District Attorney that the claim cannot be confirmed, because the land was not segregated from the public domain before the change of sovereignties.

* * * * *

But upon the assumption that the cases decided under the act of 1824 apply to the case now under consideration, the inquiry presents itself whether, under the rules of decision laid down by the Supreme Court, this claim must be rejected for vagueness of boundaries. The land is described in the grant as "the tract known by the name of the Mariposas, to the extent of ten square leagues, within the limits of the Sierra Nevada and the rivers Chowchillas, Merced and San Joaquin."

The district of the country embraced by these exterior boundaries is shown to contain nearly one hundred square leagues.

If the grant contained no other means of designating on what part of this extensive district the particular ten leagues granted

were to be taken, I should strongly incline to the opinion that, under the decisions of the Supreme Court, it would be void for uncertainty. But the tract granted is called in the grant, "Las Mariposas." If, then, within the general exterior limits a particular tract by the name of "Mariposas" can be found and identified, that tract must be taken to be the subject of the grant.

From the testimony taken, it appears that within the general limits mentioned in the grant a smaller tract, situated on the Mariposas creek, is well known, and seems to have been understood to be the tract granted to Alvarado. This tract, joining the valley of the Mariposas, is that delineated on the map of Pico, which, though merely a private map, and made from memory, yet when accompanied by a survey by the Surveyor General, made in conformity with it, and taken in connection with the testimony, shows that there is a tract of land known as Las Mariposas, situated within the general limits of the grant, and capable of identification. The valley seems to be easily distinguishable, being narrow and shut in by high and barren hills. This, General Vallejo swears to be the tract generally known to have been granted to Alvarado.

In O'Hara's case, (85 Peters, 283) the Court say: "The place where the survey is to be made, must first be made certain; if not as to fixed boundaries, at least so certainly by evidence of general or popular apprehension, as to show what was the grantor's notion of the limits of country within which he intended to grant." In this case, not only are the general limits of the country specifically shown by the exterior boundaries mentioned in the grant, but the particular part is designated. In the case of the *United States vs. Clarke*, (8th Peters, 467) the grant was for "five miles square of land on the west side of St. John's river, above Black creek, at a place called White Spring," and this the Supreme Court held valid as to the whole land within its limits, as well that which had not been surveyed, as the 8000 acres which had. I do not perceive that the description in that grant was more specific than that under consideration.

In Boisdoré's case, (11 Howard, 86) the claim was rejected for a vagueness of description, but in that case the quantity of land was not designated, and the uncertainty of the boundaries left it

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liable to be enlarged or diminished at the discretion of the surveyors. In the case at bar, the quantity of land granted is fixed.

The limits of the district within which it is to be located, are designated by unmistakable natural boundaries, and the particular land granted is specified by name. It does not seem to me that in directing a survey to be made in the valley of the Mariposas, or in adopting that already made, the Court would be exercising the granting power, but rather be determining the extent and locality of land already severed from the public domain by the grant itself.

The other objection urged by the District Attorney to the confirmation of this claim is, that the conditions of the grant have not been complied with, and therefore the title of the claimant being inchoate or imperfect, not having been approved by the Departmental Assembly, no equitable obligation rests upon the United States to perfect it.

In the case of Cruz Cervantes, it was considered by this Court, that the only solid equity which the claimant under an unconfirmed grant could urge upon the Government was the fulfillment of the conditions, or the performance of those acts which, under the Mexican system, were the only motives and considerations for the grant—and that whereas in that case the conditions had been wholly unperformed, and the grant apparently abandoned for a great number of years, without an effort or an excuse, the claimant could not appeal to the justice of the Government to confirm his claim, however much his application might commend itself to its generosity. In the case of Reading, the efforts of the plaintiff to perform, and his excuses for his failure to perform completely, were deemed sufficient to entitle him to a confirmation within the rule laid down in Sibbald's case, to which it seemed most analogous. The facts in the case at bar are as follows: The grant was issued to Alvarado on the twenty-ninth of February, 1844, on condition, among other things, that "he should build a house within a year, and that it should be inhabited." Immediately on receiving his grant, Alvarado (as appears from his own testimony) applied to the Governor for a military force to enable him to take possession, reminding him of the fact already known to him, that the country was infested with hostile Indians, and could not be occupied except with the aid of a military force. The Governor, as Alvara-

rado testifies, offered to erase the conditions from the grant, but this the petitioner declined, alleging his desire and intention to occupy and cultivate his land. The Governor then agreed to furnish the necessary force, and a military post was soon after established on the San Joaquin, near the granted land. Owing to the depredations of the Indians, this post was after a short time abandoned. Shortly after there was a political revolution, and Gen. Micheltorena's affairs becoming embarrassed, no more troops were sent. This occurred during the year 1844. Alvarado further testifies, that in August, 1845, while commander at Monterey, he collected the cavalry and took them to his rancho, near Monterey, and was organizing them for the purpose of taking possession, by their aid, of the Mariposas. While thus engaged, he received orders from Gen. Castro to return to Monterey, there being rumors of war. From that time Alvarado made no other attempts to take possession—his military duties occupying all his attention during the war which immediately ensued. In the beginning of 1846 the war between the United States and Mexico broke out, and on the seventh of July of that year, the American flag was hoisted and the Mexican authorities deposed. On the fourteenth of February, 1847, Alvarado conveyed to Fremont, the present claimant. On receiving his conveyance, Fremont seems to have taken some measures to settle and cultivate his land, but being ordered home under arrest, he employed an agent to go upon the land, and cultivate and inhabit it. That agent was, by Fremont's direction, supplied with money, agricultural implements, provisions, etc.; but on going to the land in the spring of 1847, found the Indians so hostile that he was obliged to abandon the enterprise. The same agent twice visited the land during the following summer, but found the Indians so hostile that he was unable to make any settlement. The land was not finally settled until after Fremont's return from the United States in 1849. But since that time, the claimant has erected upon it numerous valuable improvements—consisting of dwelling houses, farm houses, machine shops, etc., and is now in possession of the tract. The whole testimony leaves no room to doubt but that the settlement was effected at as early a time as the hostility of the Indians, and the circumstances of the

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country rendered it practicable to do so without a large military force.

It is urged by the District Attorney that hostility of the Indians affords no excuse for nonfulfillment of the condition, and in support of this position, the case of *De Villemont vs. The United States*, (13 Howard, 266) is relied on.

The case of *De Villemont* bears the strongest analogy to the one under consideration. The concession was granted in consideration of the petitioner's intention and promise to establish a stock farm and plantation. It was made under the express condition that he should make the regular road and clearing, within the peremptory term of one year, the concession to be null if at the precise expiration of three years the land should not be established. From the date of the grant, until the delivery of Louisiana to the United States, he had completely failed to comply with the conditions.

In excuse, he showed that during all that time he was the civil and military commandant of the fort of Arkansas; that his presence there was constantly required by the threatening aspect of the Indian tribes by whom he was surrounded; and his correspondence with the Governor showed that even a temporary absence from his post would not have been tolerated. He further showed that the hostility of the Indians prevented a settlement by his agents.

It was also established by proof, that the common usage of the Spanish authorities was to insert the conditions, as to making a settlement and a road within a given time, mechanically, and as mere matter of form; that no land was ever forfeited under the Spanish Government for noncompliance with these conditions; and the testimony on this point was confirmed by that of a Judge of the Supreme Court of Louisiana, of great experience and reputation.

It further appeared, that the claimant had, as in this case, attempted to make a settlement by an agent, but the hostility of the Indians prevented it. It is apparent that in almost every particular that case resembles the one now under consideration.

The Court, in commenting on the duty of performing the conditions, say: "It was undoubtedly necessary that an establishment should have been made within three years—such being the requirements of the grant in concurrence with the regulations." The

evidence of usage in that case was at least as strong as that relied on in this; and the attempt to settle seems to have been made in that case as in this, and to have been abortive for the same reason. The Court was also in that case required to be governed in its decisions by the laws, usages and customs of the Government under which the claim originated. But the claim was rejected, notwithstanding the excuses offered, and the evidence of the uniform usage of the Spanish authorities.

Boisdoré's case is, if possible, stronger; for in that case there was a partial performance of the conditions; but the Court held that inasmuch as the claimant had stipulated to remove his family to the land, and take there all his force of negroes, the occupation by a single mulatto, by whom some cattle were kept, and a few acres cleared, was wholly insufficient. With respect to the excuse that the state of the country and Indian hostilities prevented the settlement, the Supreme Court held as early as *Kingsley's case* (12 Pet. 483) that the excuse could not be received, if the same obstacles existed at the time of the concession; and the decision in *De Villemont's case* but reëffirmed that doctrine.

The case of Sibbald (10 Pet. 313) is relied on by the counsel for the claimant, as furnishing an instance analogous to that in this case, of a good performance *cy prés*.

But the difference between the cases is obvious. The grant in that case was on condition that a mill should be established; and it declared, "that until the petitioner should establish his mill, this grant should be of no effect. It was dated in 1816, but no specific time was limited by the decree within which the mill was to be erected and put in operation.

It appeared that a mill was built in 1819, and carried away by a freshet, but that \$5000 had been expended in the construction; that in 1827, another mill was built and in operation, which was destroyed by fire in 1828; that in October of 1828, another was built, which went into operation in June, 1829, and had ever since so continued. The Court held that the petitioner had begun the erection of the first mill in time to save a forfeiture, and that the other acts amounted to a compliance with the condition, according to the rules of equity.

But in the case at bar, the time for making the settlement is limited to one year. So far as appears, Alvarado never saw the tract he assumed to convey to Fremont; nor was any settlement effected by the latter until a year after the ratification of the treaty. It cannot be urged in this as in other cases, that the grant was not made complete by the assent of the Assembly, owing to accident, or the neglect of the Governor, for Alvarado himself says it could not be submitted to them without the *diseño* or plan, which on account of the hostilities of the Indians he was unable to furnish; and yet the danger from that source existed at the time of his application, for he assigns it to the Governor as a reason why the *diseño* did not accompany the petition.

It is urged that the political disturbances of the country contributed to prevent the settlement. But I think it clear from the evidence, that the principal, if not the only reason why it was not effected by Alvarado or Fremont, until after the treaty, was the danger from the savages; and that this danger existed to substantially the same degree before and after the grant.

Upon the whole, after a most careful consideration of this case, and with every desire to give the claimant the full benefit of every favorable consideration to which he is entitled, I have been unable to resist the conclusion that the cases of Glen, of De Villemont and of Boisdoré, lay down for me rules of decision applicable to this case, and from which I am not at liberty to depart.

H. F. TESCHEMACHER, *et al.*, CLAIMING THE RANCHO OF
LUP YOMI, APPELLANTS, *vs.* THE UNITED STATES.

ORDINARY grants and those for meritorious services are governed by the same principles and regulations.

Appellants claim the tract of land known as Lup Yomi, in Napa county, alleged to contain fourteen leagues, granted by Governor Manuel Micheltorena, on the fifth of September, 1844, to Salvador Vallejo and Juan A. Vallejo. The claim was rejected by the Board of Land Commissioners.

THORNTON & WILLIAMS, for Appellants.

S. W. INGE, United States District Attorney, and A. GLASSELL, for Appellees.

At the commencement of the session of this Court for the hearing of appeals from the Board of Land Commissioners, it was stated by the District Attorney that a question of great importance would arise, the determination of which would materially affect, if not control, the decision of a large majority of the land cases now pending in this Court.

The District Attorney having stated his point, the Court intimated its willingness to hear the subject fully discussed by any members of the bar whose cases might be affected by the determination of the question.

Pursuant to this invitation, the Court has been favored with elaborate and learned discussions, which have occupied its attention during several days, and in the course of which not only the points raised by the District Attorney, but other questions, arising out of the system of granting land formerly prevailing in this country, have been fully examined.

As to many of these, it would be inexpedient for the Court now to express its opinion. Its more immediate duty is confined to the determination of the points raised by the District Attorney.

When the opinion of the Supreme Court in the case of *Fremont vs. The United States* was first promulgated in this State, it was

generally supposed that by it principles were determined and rules of decision established applicable to all the ordinary colonization grants in California.

It is urged by the District Attorney that the grant to Alvarado was not an ordinary colonization grant, or at least that his title, or that of his assignee, was upheld by the Court, not on considerations applicable to colonization grants generally, but on the ground that the land was originally granted to him for meritorious services; that the principles laid down by the Court must be considered as applicable to such cases alone; and that those principles are still open for discussion in all cases which in this particular can be distinguished from that of Fremont.

It becomes then the duty of this Court, not to seek to limit the operation of the decision of the Supreme Court by subtle and unsubstantial distinctions between the case decided and other cases to which the same reasoning may apply, but to inquire whether the decision in question was in any respect founded upon the distinction suggested, and whether the principles laid down are not, by the reasoning by which they are supported and the facts to which they are applied, necessarily applicable to all similar cases.

But one passage in the opinion of the Court in the case of Fremont has been cited as indicating that the principles determined by the Court were to be limited in their application to cases where the grantee had rendered meritorious services :

“The grant was not made merely to carry out the colonization policy of the Government, but in consideration of the previous public and patriotic services of the grantee. This inducement is carefully put forth in the title papers; and although this cannot be regarded as a money consideration, making the transaction a purchase from the Government, yet it is the acknowledgment of a just and equitable claim; and when the grant was made on that consideration, the title in a Court of Equity ought to be as firm and valid as if it had been purchased with money on the same conditions.”

In determining whether the considerations suggested in the foregoing extract were the true grounds of the decision of the Court, it will be necessary to consider what were the questions presented

for determination in that case, and what were the facts of the case before the Court.

The objections to the confirmation of the claim of Fremont, which chiefly received the attention of the Court, were two.

1. That there was no segregation of the granted land from the public domain, no survey having been made or juridical possession given; and that the description of the grant was so vague and uncertain that nothing passed by it.

2. That the conditions of the grant had not been complied with.

With respect to the first objection, it is apparent that the motives of the grantor, or the consideration on which the grant was founded, in no respect affect it.

It recognizes, or does not deny, the right of the claimant to ten leagues of land somewhere; but it is based on the ground that the Courts have no power to grant land, or decree an equivalent for land, that cannot be identified, and that until its identity is established so as to enable the Court to ascertain with reasonable certainty where it lies, the land remains unsevered from the public domain, and the grant cannot be confirmed.

It is evident that this objection would apply with equal force to all grants with similar descriptions, and would be equally tenable, whatever the authority by which the grant was executed, or the considerations on which it was founded.

The circumstance, then, that Alvarado was deemed worthy to be preferred for his patriotic services, cannot be deemed to have influenced the Court in determining the question whether anything passed by the grant; and the decision of the Supreme Court must be received as settling the law, not only in the case of Fremont, but in all cases of grants in California with similar descriptions.

With regard to the second objection, viz: that the conditions of the grant had not been complied with, the distinction taken by the District Attorney possesses greater plausibility. For if the inquiry be, what excuses for the nonperformance of the conditions shall be received, it *might* be contended that in case of a grant founded in part on the consideration of previous services, the Court would be less rigorous in exacting a full performance than in cases where the performance of the conditions formed the sole consideration of the

grant, and that the rules laid down in one class of cases could not be applied to the other.

But the reasoning of the Court in the case of Fremont in no respect proceeds upon this distinction.

The Court, in the previous part of its opinion, decides that the grant to Alvarado vested in him a present and immediate interest, and that the conditions attached to it were conditions subsequent. It then proceeds to inquire "whether anything done, or omitted to be done, by him during the existence of the Mexican Government in California *forfeited* the interest he had acquired and *revested it* in the Government."

In determining this question, the Court observes "that the omission to perform the conditions did not forfeit the grantee's right. It subjects the land to be denounced by another, but the conditions do not declare the land to be forfeited to the State upon the failure of the grantee to perform them. The chief object of these grants was to colonize and settle the vacant lands. The grants were usually made for that purpose, without any claim of the grantee on the bounty or justice of the Government. But the public had no interest in forfeiting them *in these cases*, unless some other person was ready to occupy them, and thus carry out the policy of extending its settlements. As between the grantee and the Government, there is nothing in the *language* of the *conditions*, taking them altogether, which would *justify* the Court in declaring the land forfeited to the Government, where no other person sought to appropriate them and their performance had not been unreasonably delayed; nor do we find anything in the practice or usages of the Mexican tribunals, so far as we can ascertain them, that would lead to a contrary conclusion."

The Court then proceeds to inquire whether there had been any such unreasonable delay, or want of effort, on the part of Alvarado to fulfill the conditions, as would authorize the presumption that he had abandoned his claim before the Mexican power ceased, and that he was now endeavoring to resume it from its enhanced value.

It is apparent from the foregoing extracts that the learned Chief Justice is considering the effect of a nonfulfillment of the conditions, not merely in cases of grants made on consideration of pre-

vicious services, but also in those made "without any claim of the grantee on the bounty or justice of the Government." The conclusion arrived at is founded "on the language of the conditions, and their evident object and policy," and is declared to be in accordance with the practice and usages of the Mexican tribunals.

That "the Court is not justified in declaring the lands forfeited, where no other person has sought to appropriate them and the performance of the conditions has not been unreasonably delayed," must be deemed to be a decision applicable to all cases of grants in California, and the idea that it relates exclusively to grants founded in part on the meritorious services of the grantee must be rejected as inadmissible.

But even if the language and reasoning of the Court were less clear, the facts in the case of Fremont show that the grant to Alvarado can in no respect be distinguished from the ordinary colonization grants made in California.

By reference to the petition of Alvarado to the Political Chief, it will be seen that he solicits the land "according to the colonization laws." The Governor, in conformity with those laws, directs the Secretary to report, and all the intermediate steps are taken precisely in the manner required by the laws of 1824 and the regulations of 1828.

By those laws the Governor was authorized to concede lands to those who petitioned for them with the object of "cultivating them or living on them." (Regulations of 1828, sec. 1.) Nor does he seem to have been empowered to grant on any other conditions or considerations: for the regulations of 1828, under which he acted, give to the Political Chief no authority to make grants in reward for military services.

The grant when issued is made subject to the approval of the Departmental Assembly, as required by the fifth section of the regulations, and it contains all the conditions and only those required by the policy of the colonization laws, and invariably inserted in the colonization grants. That both the Governor and the grantee intended this grant to be made under the colonization law is too clear for argument; and it is abundantly evident, from the opinion of the Chief Justice, that the grant was considered by the Supreme

Court as made under those laws, and by their requirements its validity was tested.

With regard to the reference made in the grant to the meritorious services of the petitioner, it is to be observed that under the colonization laws of 1824 and the regulations of 1828 they could not have formed the *consideration* of the grant. By the ninth section of the law of 1824, it was enacted that in the distribution of lands preference shall be given to Mexican citizens, but "between them there shall be no distinction, except that to which their particular merits or services entitle them." The meritorious services of the applicant are therefore under the law regarded, not as the consideration of the grant, but merely as a reason why his application should be preferred to that of others. But in his case, as in that of an ordinary colonist, the motive and consideration of the grant as well as the object and policy of the law were the cultivation and inhabitation of the land. In strict conformity with this provision of the law, the Governor in his grant recites that Alvarado, "for his patriotic services, is worthy to be *preferred* in his pretention to the land," etc., and he then proceeds to make the grant on the usual conditions. But he does not pretend to grant the land as a recompense for meritorious services, nor from any other motive than to carry out the policy and effect the object of the colonization laws, under which he was acting; and for this purpose he adds to his grant the usual conditions, the fulfillment of which is the only consideration for the grant contemplated by the law.

If any further argument were necessary to show that in deciding the case of Fremont, the Supreme Court has laid down, and intended so to do, principles applicable to colonization grants in California generally, and not merely to the particular case under consideration, it would be found in the first sentence of the opinion of the Court.

"The case," says the Court, "is not only important to the claimant and the public, but it is understood that many claims in California depend upon the same principles, and will in effect be decided by the judgment of the Court in this case."

In the face of such a declaration, it can, we think, hardly be

contended that the case was determined upon peculiar and exceptional grounds.

The case at bar remains to be more particularly considered. No oral argument upon the merits of the case was had at the hearing, but it was stated by the District Attorney that the only objections to the validity of the claim on which he relied, were those contained in the opinion of the Board of Land Commissioners rejecting the claim. By reference to that opinion, it appears that the grounds on which the Board rejected the claim were two.

1. That the conditions had not been performed.
2. That the locality and boundaries are not given with sufficient definiteness to identify the premises.

Without stopping to consider how far the force of the first objection is affected by the principles decided in the case of Fremont, it is sufficient to say that it is not sustained by the proofs.

Since the decision of the Board was rendered, and during the pendency of the case in this Court, additional testimony has been taken, which establishes beyond question the fact that the conditions of cultivating and inhabiting their rancho have been fully complied with by the grantees.

The grant was issued on the fifth of September, 1844. The land had, however, previously been occupied by the grantees under a permission to occupy issued by the Director General of Colonization, and dated March 15th, 1839. It appears that the rancho was occupied as early as 1842 or 1843 by Juan Antonio Vallejo and Salvador Vallejo, the grantees, who put upon it large numbers of horses and cattle and hogs; that they built several houses, of which the last, built either in 1844 or 1845, was an adobe, consisting of two rooms, one large and the other small, and that corn, beans and watermelons were cultivated on the rancho.

Had this evidence been submitted to the Board, I cannot doubt but that they would have regarded the facts of cultivation and habitation as satisfactorily established.

The second objection urged by the Board is, that the boundaries and locality of the granted land are not given with sufficient definiteness.

The recital in the grant states that the petitioner has solicited

the land known by the name of "La Laguna de Lup Yomi." The grant is made with the specification "that the land of which donation is made is sixteen leagues, more or less, as shown by the respective map."

A map of the land described in the grant was offered in evidence before the Board. This map was proved by the testimony of Salvador Vallejo to be a faithful representation of the land; but he was unable to state whether or not it was the same that was presented to the Governor. He believed, on the contrary, that the map produced was one made by himself, while that presented to the Governor was made from it by Jasper O'Farrell. The witness, however, did not explicitly state that O'Farrell's map was a copy of the one produced, or that he saw O'Farrell make his map, or that he has compared the two.

Under this evidence, it was decided by the Board that it did not appear that the map offered in evidence was either the identical map presented to the Governor or a copy of it, and that the description in the grant was not sufficient in the absence of either a map or a juridical measurement and delivery of possession to describe and locate the land granted, or to segregate it from the national domain. To remedy this defect in the proofs, additional testimony has been taken in this Court.

By the testimony of Bedney F. Macdonald, it appears that the rancho pointed out to him as that of Lup Yomi can be readily distinguished by great natural boundaries; "that there are only two places by which you can get out of it," and "that the boundaries all around are high mountains, except where it is bounded by the creek and the lake. The boundaries are natural boundaries, and cannot well be mistaken." The witness further states that he made a map of the tract according to the boundaries as pointed out to him by Salvador Vallejo and Ramon Carrillo.

Salvador Vallejo, in an additional deposition taken in this Court, states, after describing the land, that he has known the tract since 1840 or 1841, and that it has been called by the name of "Lup Yomi" ever since he has known it; that it has natural boundaries, the mountains on one side, and the lake on the other; and that the boundaries of the tract are the same as those pointed out

by him and Carrillo to McDonald, the surveyor. He further states that after the grant of the tract to him, he pointed out its boundaries to seven rancheros, his nearest neighbors, that they might know it and recognize it as his property; that he knew what those boundaries were, because the mountains were on one side and the lake was on the other; that these boundaries were the same as those originally designated to him by an Indian chief named Minac; that *Lup Yomi* in the Indian language means "town of stones," and this tract was so named by the Indians.

José Ramon Carrillo testifies to substantially the same facts. After stating the boundaries of the tract, he adds, that its boundaries are natural, consisting of the lake, the mountains and the river; that the line runs at the base of the mountains; and that he has known it by the name of "*Lup Yomi*" since 1840. He further states, that Minac, the Indian chief, pointed out the land described by him, the witness, as his land—called "*Lup Yomi*;" that he knows of no other land called by that name; and that the adjoining valleys have different Indian names—some of which the witness mentions.

From the foregoing testimony we think it clearly appears that the description in the grant of the land as that known by the name of "*La Laguna de Lup Yomi*" is sufficient to designate its locality; that the premises are identified, and the land severed from the public domain by its designation under a name which is shown to be that under which it was well known, and which was applied to a distinct and unmistakable tract of land, enclosed within great natural boundaries limiting and defining its extent.

That such a mode of designating the locality of the granted land is at least as satisfactory as that furnished by the designation of a point of commencement for a survey, we think obvious. For in this case, not only the beginning point for a survey, but all the exterior boundaries are distinctly indicated, and circumscribe the tract and limit the quantity of the land with such precision, that it has been ascertained on a survey to contain only twelve leagues instead of sixteen, the quantity mentioned in the grant.

No other reasons for rejecting the claim than those we have been considering are contained in the opinion of the Board, nor has

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any other been suggested in this Court by the District Attorney.

Neither the genuineness of the grant nor the authority of the Governor is disputed.

A decree confirming the claim of the petition must therefore be entered.

It will be perceived from the foregoing that the decree in this case proceeds on the ground that the grantee has fully complied with the conditions of his grant, and that the description of the land in the grant is abundantly sufficient to ascertain its locality, and to effect its severance from the public domain.

The question discussed in the first part of this opinion might therefore, with more propriety, have been considered in some other case necessarily requiring its determination. But the importance of the question, and the fact that it was elaborately argued at the bar, as applicable to this case, have induced us to take this occasion fully to express our views upon it.

CHARLES D. SEMPLE, CLAIMING THE RANCHO COLUS,
APPELLANT, vs. THE UNITED STATES.

UNDER the decision of the Supreme Court in Fremont's case, this claim is entitled to confirmation.

Claim for two leagues of land on the Sacramento river, rejected by the Board, and appealed by the claimant.

THORNTON & WILLIAMS, for Appellant.

S. W. INGE, United States District Attorney, for Appellees.

The evidence in this case shows that on the twenty-eighth of June, 1845, John Bidwell petitioned the Governor for a grant of land. After the usual reference for information and reports thereon, a grant was issued on the fourth of October, 1845, by the Governor, Pio Pico, subject to the approval of the Departmental Assembly, which approval was given four days afterwards. The genuineness of the grant is not disputed.

The land solicited is described in the petition as "the tract of land known by the name of 'Colus,' on the bank of the river Sacramento, which tract is vacant, and contains two sitios, bounded thus: on the north-west by vacant land; on the north-east by the river Sacramento; on the south and south-west by vacant land, as shown by the drawing annexed to this petition."

In the grant the land granted is described as the tract of land known by the name of "Colus," on the bank of the river Sacramento, to the north-east direction.

Under the evidence submitted to the Board, this claim was rejected for want of definiteness of boundaries, or any description sufficient to enable a surveyor to locate it.

It was considered by the Board "that the only thing which is certain in this description is, that the land is bounded on one side by the Sacramento river. That there is nothing to fix the place along the river where it is located, or to identify a single point where it touched that stream."

It was further considered by the Board that this defect was unaided by the map which accompanied the petition and forms a part of the expediente, as nothing appeared in the evidence to show why the lines were placed in the position they occupy on the map, or how they are to be found by a surveyor. "They are," say the Commissioners, "mere lines on paper, having no monuments or landmarks to indicate the locality. The three sides of the tract which are not identical with the Sacramento river have no description which will not as well be answered by a line drawn in one place as in another through the vacant lands, and there is no description which fixes the front on any specified portion of the length of the Sacramento."

To meet the objections stated in the above extracts from the opinion of the Commissioners, additional testimony has been taken in this Court.

By the evidence of John Bidwell, the original grantee, it appears that the original of the map contained in the expediente was made by him in 1845, and presented with his petition to the Governor. That there is a very noted point on the Sacramento river, being a high mound, the site of the rancheria "Colus." The northern

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boundary begins on the Sacramento at a point just one league above said "Colus" rancheria, and runs directly back from the river at right angles with its general course one league—thence parallel with the general course of the said river and down said river so far as to include two square leagues of land. The tract was intended to be as expressed in the map, two leagues long and one wide. The witness adds, that with the aid of the map and establishing the beginning point as stated, he or any other surveyor could locate it accurately.

The testimony of this witness is confirmed by O. M. Wozencraft and L. B. Mizner.

The former of these witnesses was, in 1851, United States Indian Commissioner, and as such acquired full knowledge that the "Colus" Indians had been on the Rancho de Colus a very great number of years.

The tribe, which is the only one of that name in California, inhabited a large mound or rancheria about one hundred and fifty yards from the steamboat landing in the present town of Colusa, between six and eight miles from the Buttes, in a west by north direction, on the west bank of the Sacramento river.

These Indians, known as the "Colus" tribe, were still inhabiting their rancheria on the mound spoken of, as late as 1849, as appears from the testimony of L. B. Mizner.

The map, which forms a part of the expediente, indicates the general form of the land solicited, precisely as testified by the witness, Bidwell. It is made with some skill, and is much superior to the rude delineations which accompany most of the Mexican expedientes.

The mound, or Rancheria de "Colus," is distinctly indicated on this map, and in a position entirely corresponding with that described in the testimony of the witnesses, as appears from the scale attached to the map. It is evident, from an inspection of the map, that if the Rancheria de Colus can be found, a surveyor with the aid of the map could have no difficulty in locating the land. That the rancheria and the mound on which it was situated can be found, the testimony leaves no room to doubt.

We think that the objection of the Commissioners, that there are

no monuments or natural landmarks to indicate the locality of the grant, and no description which fixes the front on any specified portion of the length of the Sacramento river, is effectually removed by the evidence taken in this Court.

With respect to the performance of the conditions, it appears that when the grantee first received his grant, in October, 1845, he intended to occupy his land the following summer, but was prevented from doing so by the hostilities which began in 1846, between Mexico and the United States. He, however, employed a man in that year to live upon his land and take charge of it, but he died very shortly afterwards. The witness served in the American army during the war, and in June, 1849, immediately after its conclusion, he built a corral upon his land for his cattle. In January, 1850, he conveyed the land to Semple, the present claimant, who immediately took possession of and occupied it.

The excuses for not fulfilling the conditions are, it will be seen, at least as satisfactory as those decided in the case of Fremont to be sufficient. In this case there has been no unreasonable delay, and the reasons for not occupying the land are such as by an American Court should be received with favor. There is no pretense to say that the grant was abandoned, for the grantee seems to have commenced the improvement of his land as soon as the cessation of hostilities permitted him to do so.

It is to be observed in addition, that the grant in this case was approved by the Departmental Assembly, and a complete title passed to the grantee. His grant was thus by the regulations of 1828, *definitively valid*, and the Mexican title completely divested. The grant in the case of Fremont had never received the approval of the Departmental Assembly. Whether in any case of a grant made definitively valid by the approval of the Assembly, this Court can decree a forfeiture for the breach of conditions subsequent, it is not now necessary to inquire; for the right of the claimant is clear on the principles laid down in the last, as well as on the earlier decisions of the Supreme Court.

No other objections to the confirmation of this claim have been brought to our notice, nor do any others occur to us on an examination of the record in the case.

A decree of confirmation must therefore be entered.

United States v. Larkin.

THE UNITED STATES, APPELLANTS, *vs.* THOMAS O.
LARKIN *et al.*, CLAIMING JIMENO'S RANCHO.

UNDER the decision of the Supreme Court in Fremont's case, this claim must be confirmed.

Claim for eleven leagues of land on the west bank of the Sacramento river, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

A. C. WHITCOMB, for Appellees.

In this case the claim of the appellees was confirmed by the Board of Commissioners. An appeal from that decision was taken to this Court. But the case has been submitted by the District Attorney without the statement of any objection to the validity of the claim on the part of the United States.

The original grant by Governor Micheltorena to Manuel Jimeno is dated in November, 1844. The conveyance to the present claimants is dated August 30th, 1847.

The grant is fully proved. Nor is its genuineness called in question.

The grant appears to have been submitted to the Departmental Assembly, and referred to a Committee on vacant lands, June 3d, 1846, but no further action on it is shown to have been had.

The expediente, however, was returned to and is found among the government archives. Had the action of the Assembly been unfavorable, the Governor should have transmitted it to the Supreme Government for its resolution, (Regulations of 1828, sec. 6). The fact, therefore, that the expediente was not so transmitted, but was returned like other approved grants to the archives, renders it highly probable that the approval of the Assembly was actually obtained. The absence, however, of that approval has been held by the Supreme Court to be no obstacle to the confirmation of the claim. It is unnecessary, therefore, to determine whether the evidence in this case is sufficient to raise the presumption that the Assembly actually approved the grant.

The land claimed by the appellees is described in the original grant as "the tract of land which is unoccupied between the Rancho which has been granted to the children of Don Tomas O. Larkin, the river Sacramento and the uncultivated lands which are on the side of the south, entirely in conformity with the showing in the corresponding plan."

On reference to the plan or map found in the expediente, we find the boundaries of the tract granted laid down with considerable precision. The first or northern boundary is the Rancho granted to the children of Don Tomas O. Larkin. The eastern boundary is the Sacramento river; the southern is a large estero, (marked on the map "lindero," or boundary) running into the Sacramento about two leagues above, as appears by the scale upon the *diseño*, the mouth of Feather river. Nothing appears on the map to indicate the locality of the western boundary. That boundary is evidently an imaginary line running parallel with the Sacramento, and as far distant therefrom in a westerly direction as to embrace within the tract the quantity of land granted.

There is no difficulty, therefore, in ascertaining the locality of the land granted, nor has any objection of that kind been raised.

There is no evidence that the grantee took possession of his land. The grant, however, does not contain the usual condition of cultivation and habitation within a year. The omission of this condition may possibly have been owing to the fact that the grantee was already in possession of the land.

It appears, however, from the evidence, that from the latter part of 1844 until the end of 1847, it was unsafe to go into the valley of the Sacramento valley unless in the vicinity of Capt. Sutter's fort. From 1844, the time of the grant, until its final occupation by the American forces, the country was distracted by the wars between Micheltorena and Pio Pico, and between the latter and Castro. It is well known that during this state of things the uncivilized Indians became more turbulent, and were dangerous to the frontier settlements, which were not strong enough to resist them. In 1847 the rancho was taken possession of and extensively stocked by the present claimants, and this seems to have been the earliest moment when the settlement could have been effected.

Yount v. United States.

The circumstances in this case are almost identical with those in the case of Fremont, and under the authority of that case the excuses for the nonfulfillment of the conditions must be deemed sufficient. There is nothing in the case from which an abandonment of the grant can be inferred.

We think, therefore, that the decision of the Board should be affirmed, and the claim of the appellees be decreed to be valid.

GEORGE C. YOUNT, CLAIMING THE RANCHO LA JOTA, APPELLANT, *vs.* THE UNITED STATES.

UNDER the decision of the United States Supreme Court in Fremont's case, this claim is entitled to confirmation.

Claim for one league of land in Napa county, rejected by the Board, and appealed by claimant.

THORNTON & WILLIAMS, for Appellant.

S. W. INGE, United States Attorney, for Appellees.

On the hearing of this case, no oral argument on its merits was had, but the District Attorney stated that the objections to its validity on which he should rely were those contained in the opinion of the Board of Commissioners rejecting the claim.

To meet the objections stated in that opinion, additional testimony has been taken in this Court, and as no other reasons for rejecting it have been suggested to us, we have now to inquire whether those objections were well founded, and whether they have been since removed by the additional testimony taken in this Court.

The ground on which the claim was rejected by the Commissioners, and the only objection mentioned in their opinion, is that the land was not designated in the original grant with sufficient certainty to effect its severance from the public domain.

No juridical possession of the land was given—the officer whose

duty it was to give it having been deterred by fear of the Indians from doing so.

It appears from the expediente in this case that the claimant made his petition to the Governor for the grant on September 14th, 1843. After due reference of the same for information, and several reports thereon, Governor Micheltorena, on the twenty-first of October, 1843, made his order for a concession, and on the twenty-third of the same month issued and delivered to the claimant a grant, subject to the approval of the Departmental Assembly, and under the usual conditions. The grant duly authenticated is given in evidence in the case, and its genuineness is not called in question.

In examining the nature and force of the objection to the validity of the claim on which the Commissioners rejected it, it will be necessary to extract some portions of the opinion of the Commissioners, as the same appears in the transcript on file in this Court.

"The petition for the grant alleges that the petitioner is a carpenter, and there being in the mountains, known by the name of 'La Jota,' a vacant place, he prays His Excellency to grant him a league of said mountain land for the purpose of establishing a saw-mill therein. Some confusion appears in the subsequent papers in the case relative to the application of the name La Jota, but an examination of the original in the Spanish language makes it clear that it is used as the name of the mountain region in which the land solicited was located; and the above is all the description of the land prayed for in the petition, except a reference to some neighboring ranchos bordering, not the square league of land solicited, but a large tract of broken and mountainous country within which it was to be located, and from which it was proposed to separate it by juridical survey.

* * * * *

"The grant recites that said Yount has petitioned for an addition of one square league in the Sierra next to his rancho, named 'La Jota,' and proceeds to declare as follows: 'I have granted him one square league in said range of hills.'

* * * * *

"The land, a confirmation of which is asked of this Board, is denominated in the application to this commission the tract of land

called 'La Jota.' The land granted is nowhere in the documentary evidence emanating from the former government designated by that name, but on the contrary, seems, by the terms used, to be excluded from the place thus designated. It is not La Jota which is granted, but lands to the extent of one league which adjoin it—'La Jota.'"

Under the view of the facts of the case indicated in the foregoing extracts, the Commissioners rejected the claim, regarding it as a grant, not of any particular piece of land, but of an unlocated quantity of land to be afterwards located within an extensive and undefined tract of mountain country.

It is insisted, however, by the appellant, that this conclusion is founded on a misconception of the import of the grant, as appears, not only from the terms of the grant itself and the petition on which it was founded, but also from the additional testimony taken in this Court.

By the testimony of Elias Barnett, it appears that the tract of land claimed by the appellant was, as early as 1843, and at the time of the grant, well known under the name of "La Jota," both by the Mexicans and also by the Indians, by whom its name was originally given; that the witness has himself known the tract since 1843, and that ever since he first knew it it was called by the name of "La Jota;" that it is a piece of table land on the top of a mountain, and that its limits and extent are generally known, and its boundaries well defined; that a Surveyor could have no difficulty in locating it, its extent being a little less than a square league.

Ralph L. Kilburn testifies that he has known the tract of land called "La Jota" since the winter of 1843-44; that it lies on the top of a mountain between Napa Valley and Pope's Rancho, and that it is bounded by the slope of the mountain on every side; that it contains somewhat less than a league of land, and that it is as easy to ascertain its boundaries as those of Goat Island in this harbor.

He further states that this tract is generally known by the name of "La Jota," and that it was so known before he became acquainted with it.

It is evident from this testimony and the other depositions in the

case, that there is in the vicinity of the rancho of the claimant called Caymas, a tract of land of well defined limits, and with generally recognized boundaries; that it was at the time of the grant, and previously, known under the name of La Jota; that it was occupied immediately after the grant by the claimants, and improvements were made upon it; and that it is now known under the name of La Jota and recognized as the land granted to him.

Nothing appears in the evidence to show that the name La Jota was ever applied to the Sierra or mountain range in which the tract was situated, or that that name was ever supposed to include any other land than the well defined tract of about a league square, now claimed by the appellant.

Such being the facts of the case, we have next to inquire whether the place called La Jota was granted to the claimant.

The Commissioners seem to have thought that the name of La Jota is mentioned in the grant as that of the rancho near which the granted land was situated, and not as that of the granted land itself.

But independently of the fact that the rancho was not called by the name of La Jota, but was well known as "Caymas," a close examination of the grant will show that the name "La Jota" is applied, not to the neighboring rancho of the appellant, but to the Sierra or Serrania adjoining it.

The original grant recites, that whereas George Yount, etc., has applied for an "estencion" of one square league in the Sierra adjoining his rancho named "La Jota." In English the name thus used might well be taken for that of the rancho, but on referring to the original Spanish, it is apparent that the expression *nombrada* La Jota, in the feminine, cannot refer to the masculine antecedent *rancho*, but must relate to the feminine *sierra*.

The land granted is afterwards described as one square league in the *said* range of hills—"serrania."

The original petition on which the grant is founded, sets forth "that there being vacant "una serrania" adjoining the rancho of the petitioner "conocida con el nombre de Jota," he solicits one square league of *said sierra*, etc., etc.

From the petition, therefore, as well as from the grant, it appears

that the land granted is not a particular place known as "La Jota," but one square league in the "Sierra," or the "serrania," called "La Jota."

It is argued by the counsel for the claimants, that the phrase in the recital of the grant "nombrada La Jota" applies to the "estension" solicited. But whatever ambiguity there might have been in the recital of the grant, it is removed by the words of the granting clause, which describes the land granted as one "square league in the said range of hills" or mountain ridge, as the word serrania might with equal propriety be rendered. The petition, too, as has been stated, after reciting that there is vacant a "serrania," called La Jota, adjoining the rancho of the petitioner, solicits, not the place known by that name, but a square league of said "sierra" or mountain range.

It is clear, then, that the grant cannot be construed as conveying a *place* called La Jota, but as granting a league square in a mountain ridge of that name.

The true facts of the case are, we think, apparent.

The petitioner undoubtedly intended to ask for, and probably the Governor intended to grant, a particular piece of land in the mountain near his rancho. That piece of land was, as appears by the testimony, well known and had determinate boundaries; that it was what the petitioner asked for, is evident from the facts that its extent is exactly one square league, the quantity solicited; that he immediately took possession of it and made expensive improvements upon it; that it contained pine trees to furnish timber for the saw-mill he proposed to erect; and that it then bore and has ever since retained the name of "La Jota."

Unfortunately, however, he does not, as we have seen, solicit the place called La Jota, but a square league in the sierra of that name, and the Governor grants him, not La Jota, but a square league in said range of hills "en dicha serrania." Is, then, this grant so vague that the claim of the petitioner must be rejected?

In the case of *Fremont vs. The United States*, it was determined that the claimant had a vested right to the quantity of land named in the grant to be located within the exterior limits mentioned. Those limits embrace a region of country containing more than one hundred square leagues.

In the case before us, the claimant's right is to one square league in the mountain ridge named La Jota, adjoining his rancho. The limits within which the grant is to be located are distinctly indicated in his petition by boundaries, for it is stated to be bounded on the south by the rancho of Dr. Bale and Napa, on the east by that of Las Animas, and on the west by Las Mallaimas.

We have, then, the exterior limits or boundaries of the league granted, as well as the name of the mountain ridge on which it was situated, with the further specification that it (the mountain ridge) is adjoining (inmediata) his rancho of Caymas.

That this description conveyed to those acquainted with the country an accurate notion of the place solicited, appears from the report of Vallejo, to whom the Governor referred for information. That report speaks of "the piece of land (el terreno) solicited" as situated north of Sonoma, and as not belonging to any individual, etc.

We think the description in the grant, and the other facts in this case, bring it fully within the principles of the case of *Fremont vs. The United States*.

No other objection than that already discussed has been brought to our notice.

It appears by the testimony of José de la Rosa, that the claimant has occupied the land by "building a house, a grist and saw-mill, living on the land, carrying on the lumber business, farming and stock raising." (Transcript, p. 10.)

The claim must therefore be confirmed.

THE UNITED STATES, APPELLANTS, *vs.* GEORGE C.
YOUNT, CLAIMING THE RANCHO CAYMAS.

THE validity of this claim was not disputed by the District Attorney.

Claim for two square leagues of land in Napa Valley, confirmed by the Board, and appeared by the United States.

S. W. INGE, United States Attorney, for Appellants.

THORNTON & WILLIAMS, for Appellee.

No objections whatever to the validity of this claim are raised by the District Attorney, nor is any reason suggested why it should not be confirmed.

The grant bears date on the twenty-third of February, 1836, and is two square leagues "as shown on the map which goes with the expediente."

The land was accurately measured and juridical possession was given with the formalities required by the usage of the country, and a copy of the record of these proceedings on file among the archives of land titles in the jurisdiction of Sonoma district is found in the transcript filed in this Court.

All the conditions of the grant have been fully performed, and within the time limited, and ever since the date of the grant, 1836, the claimant has continued to reside on his land, and has made extensive and valuable improvements upon it.

The genuineness of the grant is not disputed, and almost all the facts are proved by authenticated transcripts from the public archives.

We are unable, on an examination of the record, to discover any objection to the validity of this claim.

A decree of confirmation must therefore be entered.

THE UNITED STATES, APPELLANTS, *vs.* THE HEIRS OF
JOSÉ CORNELIO BERNAL, CLAIMING THE RANCHO RIN-
CON DE LAS SALINAS Y POTRERO VIEJO.

THE allegations of fraud not being proved by the United States, the claim must be confirmed.

Claim for one square league of land in San Francisco county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

HALLECK, PEACHY & BILLINGS, for Appellees.

The confirmation of this claim was resisted on the part of the United States on the ground of fraud. The Court being desirous that the fullest opportunity should be afforded to the appellants and the numerous parties interested in defeating this claim to establish the charge, has devoted an entire week to its investigation. A mass of testimony has accordingly been taken, but it is for the most part so inconclusive, irrelevant and conflicting that the District Attorney in his concluding argument forbore to allude to it, and based his objections to the confirmation of the claim almost exclusively upon the suspicions suggested by a comparison of the original title papers with the expediente from the archives.

A brief review of the testimony may not, however, be inappropriate.

The claim of the appellees is for a tract of land, or more correctly, perhaps, for two tracts, known as the Rincon de las Salinas and the Potrero Viejo, as shown by the map accompanying the expediente.

In support of this claim, the appellees have offered in evidence the original documento or title paper issued by the Governor to the party interested; a map certified to be a copy of that which accompanies the expediente, and a certificate of the approval of the grant by the Departmental Assembly.

The expediente was also produced by the United States, and is

chiefly relied on by the District Attorney as affording evidence of fraud on the part of the claimants.

On examining the expediente and comparing it with the title papers produced by the claimants, it is obvious that the words "y Potrero viejo" have been interlined in two places, and in one instance in a handwriting evidently different from that in which the body of the document is written. The map, too, found in the expediente differs from that produced by the party, for the words "que pide" are not found in the former.

The effect of these discrepancies will be subsequently considered. It is sufficient at present to observe that the only inference which can by possibility be drawn from them is, that although the grant for the Salinas was regularly obtained, that for the Potrero Viejo has been subsequently interpolated, and the map in the possession of the claimants made to conform to the interpolated grant.

The principal witnesses produced on the part of the United States to establish the alleged fraud on the part of Doña Carmen Bernal were Mrs. Lowell and her husband, Marcus Lowell, and a Mexican woman named Teresa Moreno.

Amidst the contradictions, inconsistencies and misstatements, to call them by no harsher name, of these witnesses, it is almost impossible to obtain any definite idea of the precise character of the fraud sought to be established. The District Attorney, as has been stated, did not in his argument rely on their evidence as establishing any one fact in the case; nor did the counsel retained by those who have an interest in defeating this claim attempt to reconcile the contradictions in their testimony, or to deduce from it any clear or consistent theory of the case to be adopted by the Court.

The principal facts sought to be established by the testimony of these witnesses were as follows: That Doña Carmen Bernal had shown them her title papers; that the papers now produced are the same, but have since been altered; that, as testified by Mr. and Mrs. Lowell, the alterations were effected by a Mexican who came with a party from Monterey for the purpose; or, as testified by Teresa Moreno, that the papers were altered by a person named Barragan, residing in the house.

On examining their testimony, it strikes us as surprising that

Doña Carmen should have so freely exhibited her title papers to the witnesses, and have asked their opinion as to their validity, although one of them, and the only one who seems to have expressed an opinion, was an American who had never seen a Mexican grant, and who was unable to read or comprehend a word of Spanish; and it appears, at least, extremely improbable that she should so freely have avowed her intention to have the fraudulent alterations made pursuant to the suggestions which Mr. Lowell himself tells us he did not scruple to make.

In testifying to the alterations made in the papers, the witnesses professedly rely on their recollection of their contents when exhibited to them in 1851. They took no copy of them, nor did they make any comparison then of the papers shown them with any others. They merely swear, with more or less confidence, that certain portions of the papers have since been added.

Mrs. Lowell, who was the first witness examined, testified that she recognized the title papers as those shown her by Doña Carmen; that the words "el terreno de la Mision que pide" were not on the map when she saw it, nor the words "Laguna," "terreno que pide" and "aguagita;" that there was no seal on the eighth page, and that the date on that page has been altered; that she had no recollection of the seal on the ninth page, and that there is more writing on it now than when she saw it; that she translated it to her husband; and that what she translated to her husband contained no grant for the Potrero.

With regard to the eighth page, Mrs. Lowell at first testified that she saw no alteration or addition to it, except the certificate of J. L. Herg and the seal, which were not on that page when she saw it in the possession of Doña Carmen. That she was sure there were no other alterations. She immediately afterwards stated that she was not quite sure she had ever seen the eighth page before; that her reason for supposing it to be the same paper she saw before is, that it was "the same looking paper," and that the writing looked something like what she had seen; and she adds that she cannot say on oath that she had ever seen it before.

In a subsequent part of her examination, she states that she remembers having seen the eighth page; that the word "Salinas"

on that page has since been "put in," and that she is certain she saw that page before "by the reading on it."

Marcus Lowell, her husband, when called to the stand, testified with a confidence and an apparent candor well calculated to give plausibility to his evidence. In some particulars his testimony conflicts with that of his wife, while on some points, and those the most important, it is completely disproved. This witness swears in the most positive manner that the only papers he ever saw were the fifth, sixth, seventh and eighth pages of the originals submitted; that he never saw the ninth page which his wife stated she translated to him; and that the eighth, on which his wife detected only a few alterations, was a perfect blank. This last statement he frequently reiterates with a positiveness which would have been impressive, if the other testimony in the case had permitted us to hesitate a moment in believing him to have been mistaken.

He also states that there was no writing whatever in the place on the map where the words "el terreno de la Mision" now are; nor were the points of the compass marked on it then as now.

On both these points the opposing testimony is conclusive. On the eighth page, which, according to Mr. Lowell, was a blank, and according to his wife there was writing, but no certificate of the County Recorder, appears the certificate of that officer duly signed and dated February 19th, 1850, more than a year previous to the time when the witnesses say they saw it. It is idle to allude to the absurdity of the supposition that such an endorsement would have been forged, as useless crimes are not ordinarily committed; for not only is the genuineness of the signature of the Recorder fully proved, but the original records from his office are produced, and the document appears fully recorded and containing everything which Mrs. Lowell supposes has been since added. The record further shows, that at the time it was made, all the documents existed and were presented for record precisely in the state they are now offered to the Court, with the exception of the map, which was not recorded; and it conclusively disproves, not only Mr. Lowell's statement, but it removes whatever doubts might have been suggested by the testimony of his wife as to additions and alterations which she swears have since been made.

But independently of this and other evidence, which will hereafter be adverted to, the testimony of Mr. and Mrs. Lowell on the points under consideration is entitled to but little weight. Their whole evidence is exclusively founded on their recollection of documents seen more than four years ago. The husband was then, and is now, totally ignorant of the Spanish language, and wholly unacquainted with the forms used in Mexican grants; and the wife when called on to translate in open Court one of the papers, after slow and painful attempts, only succeeded in rendering into English detached words and "*disjecta membra*" of sentences not sufficient to convey to herself, or any one else, a clear idea of the purport of the document.

It is incredible that the recollections of such witnesses as to the contents of papers could be sufficiently accurate to justify the Court in relying with confidence on their testimony.

With a view of showing by whom the alterations in the papers were made, much testimony was taken as to the visit to Doña Carmen of a party from Monterey. On this as on the other points the witnesses contradict each other.

Mrs. Lowell swears that the party consisted of four—three Americans, dressed in American costumes, and one Mexican, a stout man of a dark complexion; she had, however, previously stated that she did not know of what country three of them were, but one was a Mexican. She further says that they went together into a large front room, but that she did not go into it while they were there.

Her husband states, with considerable minuteness, the appearance of the party: that three were Indians, and servants to the fourth, who was a Mexican mounted on a black horse; that he went into the house while his servants remained in the kitchen; and that he wore a broadcloth mantle trimmed with silver.

To any one acquainted with the difference in appearance between Americans and the Indians of the country, the existence of such a discrepancy suggests doubts which impair the credibility of all the evidence of these witnesses.

But Mr. Lowell does not confine himself to the mere statement, derived, as he says, from Doña Carmen, that the Monterey party

had "fixed" the papers. He testifies that while the Mexican gentleman was at breakfast, having occasion to enter the room of Doña Carmen, he there saw on the table some Spanish papers, and near them a kind of seal corresponding in size with the impression on page eight of the original document; that he examined it for about half a minute, and that he is sure it would make just such an impression as that on the paper. On his cross examination he asserts with characteristic confidence that the word on the seal was Monterey (written Montereia, or Monte de rea). There was also a word before Montereia. "He is very certain of it; he cannot be mistaken." It will be remembered that he and his wife had previously sworn that when they saw page eight, there was no seal upon it. The object of Mr. Lowell's testimony is therefore apparent. Unfortunately however, for Mr. Lowell's statement, it is shown conclusively by the testimony of Francisco Arce, who was a clerk in the office of the Secretary of the former government, and sometimes Secretary ad interim, and by that of Governor Alvarado, who has held almost every office of dignity in California under the Mexican rule, that the impression on the eighth page is that of the private seal of the Secretary of Dispatch; that they have frequently seen it used, and examined it, and that it has no letters whatever upon it. A close inspection of the impression on the paper confirms this statement, and its accuracy is conclusively established by the exhibition of a similar but less blotted impression of the same seal on another document from the archives, which shows beyond a doubt that the device on the stamp had no letters upon it. The account given by the Mexican woman Teresa Moreno, of the person by whom the alterations were made, is different; she says that in January, 1852, she saw a Mexican who had been living in Doña Carmen's house for a year, more or less, altering them. Though she at first was unable to say who he was, she subsequently identified a person then in Court, as the individual. At his own request, this person, whose name was Barragan, was placed on the stand, where he, in the most solemn and emphatic manner, denied having altered or even seen the papers. He further stated that at the time mentioned, he was not living in Doña Carmen's house, and in this last statement he is corroborated by

the testimony of another witness, Ramon De Zaldo, who knew him at the Mission until after the time when, according to Teresa, the alterations were made. But from Teresa Moreno we learn who was the Mexican mentioned by Lowell and his wife as having made the alterations. She states that it was a Mr. Hartnell, a relative of Doña Carmen. Unfortunately, this gentleman is now dead, but witnesses of the greatest respectability testified to his character. He seems to have enjoyed to an extraordinary degree a reputation for integrity. He was an Englishman by birth, but long resident in this country, where he had acquired a considerable property, and the witnesses called to testify as to his character, seem at pains to express, in the strongest manner, their sense of his high reputation for probity and inflexible honesty. He is shown moreover, to have been a short stout man, of a florid or light complexion, such as is usual in Englishmen, and to have worn the ordinary dress of his countrymen or of Americans. While listening to the description of his appearance given by the witnesses, it was certainly not easy for the Court to recognize in him the Mexican of dark complexion, mounted on a black horse, and clad in a broadcloth mantilla, laced with silver, described by Mr. Lowell.

One other point on which the testimony of Mrs. Lowell and her husband may be deemed material, remains to be noticed, viz: the admissions of Mrs. Bernal to them.

Mrs. Lowell in her direct examination, swears that she told Mrs. Bernal she had better have the papers fixed; that there was one paper that had a seal to it which was right, but the other, which had no seal, was not right. Mrs. Bernal then said she would have them fixed; "that she had no doubt as to the Potrero, but had some doubts as to the place where she was living, the latter being called Doña Carmen's rancho."

She further states that after the visit of the party from Monterey, Mrs. Bernal told her the papers had been fixed good and sure, and that she now had the title for the place she was living on; that she had heard Mrs. Bernal speak to her (the witness') husband about the date of the papers, and say to him that she should have the date made *later* than it was; that he advised her to get the papers right for the place on which she then was living, as they were not

right as they were, and that Mrs. Bernal replied she would get her lawyer to fix them. The change recommended, was to get the title papers so fixed as to embrace the Potrero, and the Rincon de las Salinas.

Mr. Lowell testifies that Mrs. Bernal stated to him that she had no fear as to the Potrero, because she had lived on it, and done all that was required of her, but that she was doubtful as to the other part, and therefore went and lived on it. That he thereupon gave her some advice, which he declines to state, on the ground that it would criminate himself, to which Doña Carmen replied that there were parties who she understood could correct the papers. After the visit of the party from Monterey, the witness adds, Doña Carmen seemed to be in good spirits.

The above embraces all the admissions of Mrs. Bernal which might seem to possess any importance.

If they prove anything, they prove that Mrs. Bernal's title to the Potrero viejo was, in her own opinion, perfectly good, and that the necessity for the papers being fixed, either by her lawyer, Mr. Halleck, or by her friends from Monterey, only existed with regard to the Rincon de las Salinas, and that they were so fixed by the party from Monterey, which figures so largely in their evidence.

Whatever doubts might arise in any case as to the reliability of evidence of conversations and admissions, they present themselves in this case with unusual force. Not only do Mr. and Mrs. Lowell contradict each other on many points, but the unfortunate attempt of the former to strengthen his evidence by an account of his discovery of a seal in the bed chamber of Mrs. Bernal abundantly justifies us in receiving with distrust and suspicion every statement which he makes. That Mrs. Bernal should have announced the fact that she had procured a forgery to be committed, is incredible; and to suppose that she so freely declared her intentions to procure for that purpose the services of a gentleman so well known, and of such high character as Mr. Halleck, is absurd. If any explanation of these statements by Mrs. Bernal is needed, it is found in the testimony of Teresa Moreno. That witness states that after Mr. Hartnell left, Mrs. Bernal said she had determined to take his advice, which was to consult Mr. Halleck as to the expediency of

selling, renting or otherwise disposing of the property. It was probably some such remark as this, perhaps misunderstood, certainly misrepresented, which has suggested to the fertile imaginations of the witnesses the story of the Monterey party, with all its dramatic details. But independently of the intrinsic incredibility of the testimony of these witnesses, there are some clearly established facts in the case which conclusively disprove it.

The record produced from the Recorder's office, shows beyond a doubt that the original papers, as they now exist, were recorded there more than a year before the time when Mr. and Mrs. Lowell first saw them. The ingenuity of counsel has suggested no answer to this decisive fact, nor can any be given, unless we suppose that a wholesale falsification of those records has been committed by another party from Monterey, who in some unexplained way have obtained access to them, and who have since consummated their crime by forging the name of J. L. Herg, the Recorder, appended to the endorsement on the originals. With a view of strengthening their case, the original expediente from the archives was introduced by the counsel of the parties interested in defeating this claim. By a comparison of that document with the original title papers in the possession of the party, the origin of the charge of fraud in this case becomes obvious.

The petition asks for a grant of the Rincon de las Salinas alone, and not for the Potrero viejo. (This petition, it may be observed in passing, which was never included among the title papers delivered to the party, Teresa Moreno swears was shown her by Mrs. Bernal, and that it asked for the Potrero viejo.) The concession which follows the petition, declares Don Cornelio Bernal owner in full property of the place named Las Salinas, with the Potrero viejo. In this document, which was the original concession by the Governor, the handwriting is similar throughout, and there is nothing to suggest any interpolation. But in the record of the proceedings of the Departmental Assembly, the words "y Potrero viejo" have evidently been interlined at a time and with ink different from that used in the body of the document. In the copy of the document or title paper delivered to the party, which forms part of the expediente, the words "con el Potrero viejo" have in

like manner been interlined, but whether in the same handwriting as that in which the rest of the record is written, it is not easy on inspection to discover. Whether or not there is reason to believe, under the circumstances of the case, that the grant for the Potrero viejo has been fraudulently added to the original grant, will presently be considered. One fact is apparent, that the doubt exists as to the Potrero, and not as to the Salinas, and that the efforts of the witness, Mrs. Lowell, to cast a doubt on the title to the Salinas, by suggesting that those words have been added on the eighth page, however well meant, were certainly misdirected. The same witness testifies, as has been before stated, that Mrs. Bernal said she had no doubt as to the Potrero, but had some doubts as to the place she was living on, and that after the departure of the party from Monterey, the papers had been "fixed good and sure," and that she now had a title for the place she was living on. It is apparent that the inference sought to be drawn from the interlineations of the words Potrero viejo in the expediente, is wholly inconsistent with the theory of the case, which supposes the fraud to have been committed with regard to the Salinas; and the suspicion is suggested that the witnesses, though intending perhaps to confirm by their testimony whatever doubts might arise from the appearance of the expediente, have unfortunately mistaken the object of their attack, and have directed the fraudulent efforts of the Monterey party upon the Salinas, when the true theory of the case demanded that they should have related to the Potrero exclusively.

Disarding, then, without further comment the testimony we have been considering, we approach the examination of the point on which the District Attorney exclusively relied in his argument.

It has already been stated that the words "Potrero viejo" have been interlined in the expediente in two places—in the copy of the documento or title paper, and in the record of the proceedings of the Departmental Assembly. This circumstance, together with the facts that the original petition does not ask for the Potrero, and that the map accompanying it does not contain the words "que pide" after the words "terreno de la mision," are relied on by the District Attorney as tending to show a fraudulent alteration of the title papers.

If the documents from the archives were the true and only title deeds of the claimants, this objection might well be deemed insuperable.

It will be remembered that by the Regulations of 1828, it is made the duty of the Governor, after taking the necessary information as to the propriety of granting the land solicited, to accede or not to the petition. When he determined to grant the prayer of the petitioner, a decree or concession was made by him declaring the appellant to be the owner in full property of the land solicited. This decree is invariably found in the expediente, and it usually commences with the words "Vista la peticion." When the approval of the Assembly was obtained, a certificate of the fact was given to the interested party; but an expediente containing the report of the committee and the resolution of approval, signed by the President of the Assembly, seems to have been transmitted to the Governor, and retained in the archives. The concession of the Governor having been definitively made, it was his duty, under the seventh article of the Regulations, to issue to the party interested a "documento" or grant, which might serve as a title paper.

A copy of this documento or title paper issued to the party was made, and in some instances recorded in a book kept for that purpose. This copy, found in the expediente, is usually, as in the case before us, not signed, and, as appears by the testimony of Mr. Evershed, often contains erasures and interlineations.

The instrument, then, by which the title passed to the party was the "documento," delivered to him after the concession was made, and to this and to the concession which preceded it, we must look to ascertain the nature of the grant.

On referring to the expediente, we find the concession duly signed by the Governor and the Secretary (the latter of whom established the genuineness of his signature by his own oath in Court). The land granted is mentioned as "*the Salinas and the Potrero viejo*." No suggestion has been made that these words are not in the same handwriting, nor that any interpolation has been made in this instrument. The documento or title paper produced by the party, is in exact conformity with the concession, without interlineations or interpolations. The genuineness of this doc-

ument is fully proved by Don Francisco Arce, who testifies not only to his own signature and that of the Governor, but he also declares the whole document to be in his own handwriting.

We think that from the testimony of Governor Alvarado and of Don Francisco Arce, it is clear that these papers are genuine, and there is nothing either in the evidence or in their appearance to justify a suspicion that they have in any way been altered, for we consider the circumstance that the unsigned draft or copy of the documento has been interlined as of no weight where the original is produced, and its authenticity fully established.

The effect of the interlineation in the resolutions of the Departmental Assembly remains to be considered. In that paper the words "y Potrero viejo," spelled "vejo," have evidently been interlined.

With respect to this interlineation, Francisco Arce testifies that he thinks it in the handwriting of a person named Gonzales, who was employed in the Secretary's office. The certificate of the approval of the Assembly delivered to the party is without interlineation or alteration of any kind, and it refers to the Potrero viejo as well as the Salinas. The signatures of Alvarado and Jimeno to this document are conclusively proved, the former by Governor Alvarado himself. The handwriting of the body of the instrument is also proved to be that of one Estrada, a clerk in the Secretary's office. But we are fortified in the conclusion with respect to the authenticity of this certificate to which we are irresistably led by the evidence, by some considerations suggested by the papers themselves.

By the terms of the resolution of the Assembly, as found in the archives, that body approves the concession made by the Governor, *ad interim*, Don Manuel Jimeno, of the tract of land called Las Salinas "y Potrero vejo," the last words being interlined. Now, the concession of Governor Jimeno is, as we have seen, for the Salinas and also the Potrero viejo. If, therefore, the Assembly meant to approve the concession, as they evidently did, they must have intended to approve the grant for both pieces of land. The omission of the Protrero viejo was in all probability a clerical error, which was corrected when the terms of the concession were compared with those of the resolution of approval.

On the back of this page of the expediente appears a memorandum, stating that on the thirtieth day of May a testimonio or certificate of the foregoing approbation was delivered to the party.

On referring to this testimonio produced by the claimants, we find it dated the thirtieth of May, 1840, in conformity with the memorandum, and it is signed by Alvarado, as Governor, and Manuel Jimeno, Secretary. Unless, then, the signature of Jimeno is forged, an idea not suggested by any one in the case, and wholly inadmissible, we must suppose that the Assembly confirmed the concession for the Potrero viejo, as well as that for the Salinas, according to the tenor of the certificate, for the resolution of approval is signed by the same Jimeno as President, and is for the confirmation of a grant made by himself. If, therefore, the Assembly had only approved, as contended, the Salinas concession, while that for the Potrero has since been fraudulently inserted, Jimeno, the President of the Assembly, who authenticates the record by his signature, must surely have known it; and yet, within eight days after the passage of the resolution, he signs a testimonio for the approval of the concession of both tracts to be delivered to the party.

But we think that the burden of accounting for the interlineation in the report of the committee cannot justly be thrown upon the claimants. They produce the certificate of the approval, duly authenticated. The genuineness of this document is not disputed, or if disputed, it is conclusively proved. That the report of the committee, with the resolution of approval attached, which is preserved in the archives, should contain interlineations is a circumstance which might very naturally happen, and yet the claimants may have no means to explain it. If the certificate of the approval given to the party interested be genuine, it must be received as the legal and conclusive evidence of the fact, unless other circumstances show that it was improperly furnished through fraud or mistake.

An attempt on the part of the opponents of this claim to show by whom the interlineations in the expediente were made should perhaps be noticed.

Mr. James Thompson, a witness produced on the part of the United States, on being shown the expediente, testified that he had

seen it several times in the office of the Surveyor General; that he recognized one page certainly from the interlineations upon it; that he believed he had seen the same paper in the hands of Mr. De Zaldo, at the Mission. He was then asked what Mr. De Zaldo had told him with respect to the paper. To this inquiry, the counsel for the respondents objected, and the objection was sustained by the Court. William Corbett also testified that he had frequently met Mr. De Zaldo on the road between this city and the Mission with a bundle. He was then asked what was the subject of the conversation, and what he said he had in the bundle. To this question the counsel for the respondent objected, and the objection was sustained by the Court.

With a view, however, of enabling the parties to prove, if possible, that Mr. De Zaldo had some knowledge of or connection with the alterations in the expediente, that gentleman was placed upon the stand by the Court. He denied, in the most emphatic manner, and with an indignation not unnatural, that he had ever had the expediente in his possession, except in the office and as keeper of the archives, and stated that it had never, to his knowledge, been out of the archives. He also denied in the most positive manner ever having stated to Mr. Thompson that he had many Mexican archives in his possession; and with reference to Mr. Corbett's testimony, he explained that he had been employed in translating many expedientes for a legal firm in this city, but that those translations were made from *fac simile* copies on tracing paper, made in the Surveyor General's office, and that the originals were in no case taken from the archives.

No questions were put to the witness as to any conversations with Mr. Thompson relative to alterations in the documents, and the attempt to prove that he had made such declarations, if ever seriously made, seemed to be abandoned.

Much time was consumed on the trial of the cause in hearing testimony of experts and others as to alterations in or additions to the map produced by the claimants.

We do not deem it necessary to refer particularly to the evidence on this point. The testimony of Mr. and Mrs. Lowell with regard to other alterations has been so conclusively refuted,

that we think no reliance whatever can be placed on their recollection as to what words were or were not on the map when it was exhibited to them. The testimony of the experts called to prove by inspection that the words on the map were, in their opinion, written by a different hand, or at different times, or with different ink, or with a different pen, must, we think, be regarded rather as plausible conjectures than as affording any solid basis for an absolute conclusion.

On comparing, however, the map in the expediente with that produced by the party, we find that the words "que pide" do not appear in the former. But it is to be considered that the grant is for "Las Salinas and the Potrero viejo," as shown by the map which *accompanies the expediente*. To this latter alone, then, we look to ascertain the situation and boundaries of the granted land, and on this it is not suggested that any alteration or addition has been made.

How the certified copy of the map in the possession of the party came to differ from that in the expediente, does not appear, but Francisco Arce testifies that all the writing on it is in the hand of Pedro Estrada, the words "que pide," as well as the rest.

That those words have been fraudulently inserted, is, we think, an idea that cannot be entertained, for so long as the map in the expediente, according to which the land was granted and to which the grant refers, remained unaltered, any addition to the certified copy was wholly useless. The fact that the expediente map remains unaltered, has even a double significance, for it serves to repel the suspicion that the expediente has been tampered with. Whoever was engaged in introducing fraudulent interlineations into that instrument, would hardly have omitted to make such additions to the map as were necessary to carry out his object.

We have thus, with some care and at perhaps unnecessary length, reviewed the testimony in this case. We find no reason to conclude, perhaps none even to suspect, that any fraud has been attempted.

To suppose it to have been committed, a series of forgeries and perjuries must have been committed of an extent and character without parallel.

In the first place, the document or title paper in the possession of the party, together with the certificate of the approval of the Departmental Assembly, with all their signatures, must have been forged. The original concession in the expediente must also have been forged, and the skillful hand which could thus have imitated Jimeno's writing, must be supposed to have made the interlineations in the resolutions of the Assembly and the copy of the grant, without an attempt to make these interlineations resemble the writing of the body of the instruments. The map, perhaps from some sudden qualm of conscience, he must have wholly neglected, although the mere addition of the words "que pide" would have accomplished his object.

In addition to this, if Mr. and Mrs. Lowell are to be believed, the useless crime of forging the name of the County Recorder in this city must have been committed, and some means have been discovered to procure the recording at length, in the books of the Recorder, of all the original papers precisely as they are now exhibited—the record purporting to have been made more than a year before the time when, according to Mr. and Mrs. Lowell, the originals, which have since been altered, were exhibited to them. A supposition involving such a series of impossible or improbable crimes, we are surely justified, under the evidence in this cause, in rejecting.

No other objections to the confirmation of this claim than those we have been considering, have been urged before this Court. It is not denied that the grantee fulfilled the conditions of his grant. He appears to have resided on his land from the date of his grant until his decease, and his widow and heirs still continue to occupy it.

The only objections raised by the law agent before the Board were, that the land was within the ten littoral leagues, and that no juridical possession of it was given. Both of these objections this Court has already considered and overruled.

The claim of the respondents must therefore be affirmed.

MARIA ANTONIA MESA, CLAIMING THE RANCHO RINCONADA
DEL ARROYO DE SAN FRANCISQUITO, APPELLANT, *vs.* THE
UNITED STATES.

THE objection by the Board to the confirmation of this claim obviated by the additional testimony taken in this Court.

Claim for about half a league of land in Santa Clara county, rejected by the Board, and appealed by the claimant.

JEREMIAH CLARKE, for Appellant.

• S. W. INGE, United States Attorney, for Appellees.

This case has been submitted to the Court without argument; we are referred, however, by the District Attorney to the opinion of the Board of Commissioners for a statement of the objection to the validity of the claim on which he relies.

The ground on which the claim was rejected by the Board was that there was no description of the granted land, either in the grant itself or the map which accompanies it, sufficient to designate it and effect its segregation from the public domain, or rather from the adjoining Mission lands, out of which it was to be taken.

The land is described in the grant as the land known as the Rinconada del Arroyo de San Francisquito, and bordering on the land of the Pulgas, belonging to Doña Soledad Ortega, and on the land of the establishment of Santa Clara.

By reference to the map, the course of the Arroyo San Francisquito, which is the southern boundary of the Pulgas land, appears clearly laid down. The northern boundary of the land intended to be granted is thus ascertained, but the claim was rejected by the Board because "there are no other indications or lines on the map to show the size, the shape, or the location of the tract," the only information conveyed by the map being that the land fronts somewhere on that creek, but on what portion of it, or to what extent does not appear.

It is unnecessary to inquire how far the legal principle upon

which the decision of the Board is founded, is affected by the case of *Fremont vs. The United States*.

From additional testimony of Aaron Van Dorn taken in this Court, it appears that, as a Deputy United States Surveyor, he has surveyed the adjoining ranchos, and is acquainted with the surrounding country, and that there is no difficulty whatever in locating the land by means of the calls in the grant and the map.

This witness testifies that the principal objects mentioned for boundaries are natural objects, well known and defined. That those objects exist to the witness' own knowledge, and that while making a survey of the adjoining ranchos, a certified copy of the map in this case constituted a part of his instructions from the Surveyor General.

The objection therefore raised by the Board to the claim would seem to be entirely obviated by this testimony. In confirmation of this evidence, it may be observed that the tract of land solicited appears from the documents in the expediente to have been well known to the Governor, and by those officers whom he directed to report upon the application.

The petition asks for a piece of land adjacent to the lower part of San Francisquito Creek on the south, the situation of which forms a corner, as will appear by the map; said location is bordering on the Pulgas Rancho, and its extent is probably half a square league. The petitioner further states that about two years before, he had obtained permission to occupy this land from the the administrador of Santa Clara. The officers to whom reference for information is had, report that the land solicited is known to belong to the Mission of Santa Clara, and that, as the map shows, part of it belongs to the widow Soledad Ortega.

José Estrada reports that the land on which the house is situated, belongs to the heirs of Don Louis Arguello, and on the land in the direction of Santa Clara, on this side of the San Francisquito, the cattle and horses of the ex-mission pastured, and that it is the only watering place on said location.

The Prefect to whom the Governor refers the whole matter, reports that the house, which, according to the map, stands on the land belonging to the widow Soledad, has been moved, as he is

United States v. Soto.

informed by the petitioner, and that the cattle of the ex-mission have enough land above what the petitioner solicits.

We think it evident from the general tenor of these reports, that the Governor and the officers must have had a clear and definite idea of the situation and extent of the land intended to be granted, and when in addition we have the direct testimony of a Deputy United States Surveyor that the land can, by means of the map and the calls on the grant, be readily located, we think that no ground remains for the rejection of this claim for want of definiteness.

No other objection is mentioned by the Commissioners. The genuineness of the grant is not disputed, and the grantee appears to have fully complied with the conditions.

A decree of confirmation must therefore be entered.

THE UNITED STATES, APPELLANTS, *vs.* JOSEFA SOTO,
CLAIMING THE RANCHO CAPAY.

ENTITLED to confirmation under the rulings of the Supreme Court in Fremont's case.

Claim for ten leagues of land in Colusa county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

WILLIAM H. MCKEE, for Appellee.

This cause has been submitted without argument, and no reason for reversing the decision of the Board has been suggested to us.

The expediente, containing the petition, the order of the Governor thereon, the grant, and the subsequent approval of the Departmental Assembly, is found among the archives of the former government, and the genuineness of the signatures to the title issued to the party and the record of the proceedings of the Assembly is also established.

Feliz v. United States.

The authenticity of these documents is not questioned in this Court, nor does it seem to have been in any way impugned before the Board of Commissioners. The grant bears date the twenty-first of May, 1844. The approval of the Assembly is dated the twenty-second of April, 1846.

The condition of the grant, requiring the grantee to build a house within a year from its date, does not appear to have been strictly complied with. But there was no denouncement of the land under the former government, and the grant was confirmed by the Assembly, notwithstanding the omission to comply with the condition. A house seems to have been built, and the land stocked with cattle, horses, etc., in the year 1846, or perhaps in the beginning of 1847, and from that time to the present the land has been in the peaceable possession of the appellee and those claiming under him.

In accordance with the principles laid down by the Supreme Court, and applied by us in recent cases, we think this claim should be confirmed.

FERNANDO FELIZ, CLAIMING THE RANCHO SANEL, APPELLANT, *vs.* THE UNITED STATES.

THE objections to the validity of this claim, as presented to the Board of Land Commissioners, removed by the additional evidence taken in this Court.

Claim for four square leagues of land in Mendocino county, rejected by the Board, and appealed by the claimant.

IRVING & ROSE, for Appellant.

S. W. INGE, United States Attorney, for Appellees.

The claim in this case was rejected by the Board of Commissioners for want of proof of the genuineness of the grant, and because the grant itself contained no description of the land to identify it or enable a surveyor to determine its locality.

On looking at the evidence before the Board, we find no proof even of the signature of the Governor to the original grant. The expediente from the archives was neither produced nor accounted for, but the evidence was confined to the point of occupation and cultivation by the grantee.

Since the appeal has been taken, evidence of the genuineness of the signature of Governor Micheltorena has been offered, and a duly certified copy of the expediente on file in the archives has been offered in evidence and admitted by the District Attorney.

In the original grant the signature of the Secretary is wanting, but though this circumstance might suggest a doubt as to the genuineness of the document, we are not aware that the signature of the Secretary was a legal requisite to grants of this description. The grant was made on the ninth of November, 1844. By the testimony of James Black and Jesus Piña, taken in this Court, it appears that the claimant in the spring of 1845 was living on his land, and that in August of that year he had built a house, and also had a garden, a corral, and had cattle upon it. This testimony is important, not only as showing a performance of the conditions, but tending to dissipate whatever doubts might otherwise have been entertained as to the authenticity of the grant.

The objection taken by the Board to the claim for want of proof as to its genuineness is thus obviated by the additional testimony taken in this Court, and as no argument has been offered, or suggestion made to the contrary, we presume that no doubt is entertained on the point by the District Attorney.

The second ground on which the claim was rejected by the Board, was the want of a description sufficient to indicate the granted premises.

The expediente containing the map referred to in the grant has been produced in this Court, as already mentioned.

The grant describes the land as the "place called 'Sanel,' its boundaries being the 'Serranias Altas' and the river."

By the testimony of Jesus Piña, it appears that the place called Sanel is well known; that it is situated on Russian river, and derives its name from a tribe of Indians called Sanel Indians, who live there and have a rancheria there. The witness, on being

shown the map in the expediente, recognizes it as being a map of the place called "Sanel."

James Black testifies that he has known the place called "Sanel" since 1842, and that it was always called by that name. That it is the name of a valley, and that every body in that vicinity knows it by that name, and that it has always been so known since he became acquainted with it. The witness further states that in his opinion a surveyor could, by the aid of the map, locate the land thereon designated as the "Terreno que se solicita."

Without invoking, therefore, the principles decided in the case of Fremont, we think we are justified under this evidence in concluding that the designation by name in the grant of the tract granted, with its boundaries, and the delineation on the map taken together, indicate with reasonable certainty and precision the locality of the granted land.

No doubt as to the performance of the conditions is suggested. The claimant has from the spring of the year succeeding that in which he obtained the grant, up to the present time, continued to reside upon and cultivate his land; and he even appears to have given his name to the place, for in the engraved map of the mining region of California, appended to the deposition of Black, the name "Feliz" appears, and is identified by the witness as the name of the place occupied by the claimant.

No other objections than those already considered are mentioned in the opinion of the Board, or are suggested by the District Attorney. We think, therefore, that this claim ought to be confirmed, to the extent of four leagues, if that quantity shall be found within the boundaries delineated on the map; and if the quantity so contained shall be less than four leagues, then that that lesser quantity be confirmed to him.

THE UNITED STATES, APPELLANTS, *vs.* MARIA LOUISA
GREER *et al.*, CLAIMING THE RANCHO CAÑADA DE RAYMUNDO.

No objections urged to the confirmation of this claim.

Claim for about three leagues of land in San Mateo county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

JEREMIAH CLARKE, for Appellees.

No argument was submitted on behalf of the appellants, nor was any objection suggested to the validity of this claim. The transcript has been submitted to the Court without any observations from either side.

On examining the decree of the Commissioners, it appears to be sustained by the evidence. No doubt exists as to the genuineness of the grant or the performance of the conditions. The only objections which can be urged against the claim are the want of a judicial possession, and the fact that the land is within the ten littoral leagues. These objections have heretofore been considered and overruled. There seems, therefore, to be no ground for reversing the decree of the Board. The claim must therefore be confirmed.

SALVADOR CASTRO, CLAIMING THE RANCHO SAN GREGORIO,
APPELLANT, *vs.* THE UNITED STATES.

ENTITLED to confirmation under the decision of this Court in case number eighty-eight.

Claim for one league of land in Santa Cruz county, rejected by the Board, and appealed by claimant.

JEREMIAH CLARK, for Appellant.

S. W. INGE, United States Attorney, for Appellees.

Castro v. United States.

The claimant in this case derives his title from a grant made to Antonio Buelna, on the second of May, 1839. This grant was also the foundation of the title claimed in case number eighty-eight, already decided by this Court. The claim in that case was made in the name of the widow and heir of the original grantee, and was for a part of the land originally granted. The remainder, which is the subject of the present claim, had been sold to Castro, the claimant in this case, by the widow of Buelna. The conveyances to him are duly produced and proved.

Both of these claims were rejected by the Board, on the ground that there was no proof that the Maria Concepcion Valencia Rodriguez, the claimant in case number eighty-eight, was the grantor of the claimant in this case, and the widow and heir of the original grantee.

Case number eighty-eight has already been decided by this Court; the original grant has been found to be valid, and the claim of Maria Concepcion Valencia Rodriguez, formerly Buelna, has been confirmed to that portion of the land still retained by her.

The only question, then, that remains is whether the grantor of the claimant in this case is the same person. This fact is admitted by the District Attorney in a stipulation on file in this Court.

The original grant having thus been declared to be valid, and the right of the grantor of the claimant, as heir of the original grantee, having been also judicially recognized, no objection can now be taken to the confirmation of the present claim—the validity of the conveyances by the widow Buelna to the present claimant not being disputed.

A decree of confirmation must therefore be entered for the land as described and bounded in the conveyances to the claimant, or to so much thereof as is comprised within the limits of the original grant.

THE UNITED STATES, APPELLANTS, *vs.* ANTONIO SUÑOL
et al., CLAIMING THE RANCHO EL VALLE DE SAN JOSÉ.

No objection made by the District Attorney to the confirmation of this claim.

Claim for a tract of land, supposed to contain eleven leagues, in Alameda county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

CROCKETT & CRITTENDEN, for Appellees.

The validity of this claim was proved by the production of the original grant and of the expediente, from the archives. The expediente also shows that the grant was registered in the Secretary's office, and also, by order of the Governor, in the office of the Prefecture of the first district. Both the expediente and the grant produced by the claimant contain the certificate of registry, and of the approval of the grant by the Departmental Assembly.

The evidence shows a substantial compliance with the conditions, and the boundaries and extent of the granted land are clearly indicated by the description in the grant and the delineations on the map. No objection to the confirmation of this claim having been made by the District Attorney, we do not deem it necessary to recapitulate at length the preliminary proceedings before the Governor, nor to refer particularly to the evidence by which its validity has been established.

A decree affirming the decision of the Board must therefore be entered.

THE UNITED STATES, APPELLANTS, *vs.* THE HEIRS OF
JUAN REID, CLAIMING THE RANCHO CORTE DE MADERA DEL
PRESIDIO.

THE validity of this claim is beyond question.

Claim for one league of land in Marin county, confirmed by the Board, and appealed by the United States.

United States v. Heirs of Juan Reid.

S. W. INGE, United States Attorney, for Appellants.

McDOUGAL & SHARP, for Appellees.

The land claimed in this case is shown to have been granted to Juan Reid by Governor Figueroa on the second of October, 1834. The original title is produced, and the signatures duly proved. The expediente—a traced copy of which is filed in the case—contains the petition on which the grant and a record of the proceedings of the Territorial Deputation on the second of October, 1835, approving the concession previously made by the Governor. It is also shown by documentary proof that judicial possession of the granted land was given on the twenty-eighth of November, 1835.

It is also shown that previous to obtaining the grant, and subsequently until his death, the grantee resided with his family on the land, and that since his decease his family have continued to occupy the land.

The case seems to present one of the few instances where every requirement of the law has been fully complied with.

No reason is perceived by the Court or suggested on the part of the appellants for refusing to confirm the claim.

A decree must therefore be entered affirming the decision of the Board of Commissioners.

THE UNITED STATES, APPELLANTS, *vs.* FRANCISCO
LARKIN *et al.*, CLAIMING THE RANCHO DE LARKIN.

No objections made to the validity of this claim.

Claim for ten leagues of land in Colusi county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

STANLY & KING, for Appellees.

This case was unanimously confirmed by the Board of Commissioners. It has been submitted to us without argument or the statement of any objections to it on the part of the appellants.

The points made by the Law Agent before the Commissioners are all fully considered in their opinion contained in the transcript, and we deem it enough to say that we see no reason to dissent from the conclusion at which they arrive.

Of the genuineness of the grant there can be no question. It was approved, as the Board and this Court consider, in an unqualified manner by the Départemental Assembly, and the conditions have been substantially complied with.

* The description in the grant and the delineation on the map, which is unusually accurate, indicate unmistakably the locality and boundaries of the granted land; and the decree of the Commissioners, which we are asked to affirm, particularly designates the boundaries of the tract, the title to which is confirmed to the claimants.

A decree affirming their decision must be entered as prayed for by the claimants.

THE UNITED STATES, APPELLANTS, *vs.* JOSÉ MARIA
AMADOR, CLAIMING PART OF THE RANCHO SAN RAMON.

THE confirmation of this claim not disputed.

Claim for four leagues of land in Alameda county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

E. W. F. SLOAN, for Appellee.

The Board of Commissioners have confirmed this claim without suggesting any doubt as to its entire validity.

The genuineness of the grant is not disputed, and it appears to have been approved by the Departmental Assembly. The condi-

United States *v.* Amador.

tions have been fully complied with, and the premises granted have been the family residence of the grantee from a period prior to the issuing of the grant, and he has continued to cultivate and improve his land down to the present time.

A part of his land has been conveyed by him to other parties, and he now asks for a confirmation of his claim to the remainder. A decree to that effect was made by the Board of Commissioners.

A decree must therefore be entered in this Court affirming the decision of the Board and confirming the claimant's title to the extent solicited.

THE UNITED STATES, APPELLANTS, *vs.* BERNARD MURPHY, CLAIMING THE RANCHO LAS UVAS.

No objection urged to the confirmation of this claim.

Claim for three leagues of land in Santa Clara county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

THORNTON & WILLIAMS, for Appellee.

This case has been submitted without argument on the part of the appellants; nor has any reason for reversing the decree of the Board been suggested to us.

On looking over the record, it appears that the genuineness of the original grant was fully established, and indeed does not seem to be controverted now.

The evidence discloses a substantial compliance with the conditions of the grant, and the boundaries of the land are distinctly indicated by natural objects. The land thus bounded has been found, on a survey, to contain less than the quantity called for in the grant.

We are unable to discover any reason for refusing to confirm the decree of the Commissioners.

A decree to that effect must therefore be entered.

THE UNITED STATES, APPELLANTS, *vs.* JOHNSON HORRELL, CLAIMING THE RANCHO MUSALACON.

No reason perceived for refusing a confirmation.

Claim for two leagues of land in Sonoma county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

R. W. MORRISON, for Appellee.

The claimants in this case have produced the original grant made by Governor Pio Pico to Francisco Berreyesa, on the second of May, 1846.

The expediente is in the archives of the former government, and contains, in addition to the usual documents, the record of the approval of the concession by the Departmental Assembly on the third of June, 1846.

No doubt is suggested as to the genuineness of any of these documents.

The grantee appears within the year prescribed by the grant to have entered into the possession of his land, and to have resided in a wooden house built by him upon it. He also placed upon it cattle, and commenced its cultivation.

There is no difficulty in identifying and locating the land by means of the description in the grant and the map to which it refers, and which is contained in the expediente.

The Commissioners in their opinion on this case observe "that although the title was executed but a short time before the American occupation, it appears to have been made in good faith and with due regard to the requirements of the law."

This Court perceives no ground for differing from the Commissioners in this view of the case.

The decision of the Board must therefore be affirmed, and a decree entered accordingly.

United States v. Thompson.

THE UNITED STATES, APPELLANTS, *vs.* SALVIO PACHECO, CLAIMING THE RANCHO MONTE DEL DIAULO.

No objections to the confirmation of this claim.

Claim for four leagues of land in Contra Costa county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

B. W. LEIGH, for Appellee.

In this case, a grant from Governor Figueroa to the claimant is produced and proved, and evidence is offered to prove the occupation and cultivation of the land within the year, as prescribed in the grant. In the opinion of the Board the grant is treated as undoubtedly genuine, and the fact of the performance of the conditions as indisputable. No additional testimony has been taken in this Court, nor has any reason for refusing the decree of the Board and rejecting the claim been suggested to us on the part of the appellants.

The only objections that could have been raised, viz., the want of juridical possession, and the fact that the land is within the ten littoral leagues, has already repeatedly been overruled. ✓

A decree confirming the claim must therefore be entered.

THE UNITED STATES, APPELLANTS, *vs.* JOS. P. THOMPSON, CLAIMING PART OF THE RANCHO ENTRE-NAPA.

No objections to the confirmation of this claim.

Claim for two leagues of land in Napa county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

HALLECK, PEACHY & BILLINGS, for Appellee.

The land claimed in this case is part of the rancho of Entre-Napa, originally granted to Nicolas Higuera by Governor Manuel Chico, on the ninth of May, 1836.

The authenticity of the grant is duly proved, and the expediente is produced from the archives of the former government.

It is also shown that the grantee occupied the land the same year the grant was made; that he built a house and corrals upon it; that he cultivated a part of it, and continued to live on it until his death, in 1852. Before his death he had sold a portion of his land to the present claimant. The conveyances to the latter are produced and proven.

It is also shown by the proper documentary evidence that the grantee applied for juridical measurement, and that the same was in due form made, and possession of the lands with defined boundaries given to the grantee on the eleventh of January, 1842.

Under these circumstances, no reason for rejecting the claim is perceived, nor has any been stated on the part of the appellants.

It must therefore be confirmed.

THE UNITED STATES, APPELLANTS, *vs.* THOMAS S.
PAGE, CLAIMING THE RANCHO COTATE.

THIS claim not resisted by the United States.

Claim for four leagues of land in Sonoma county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

THORNTON & WILLIAMS, for Appellee.

In this case the original grant was not produced, but its existence and loss are proved beyond all reasonable doubt by the depositions of the witnesses and the production of the expediente from the archives containing the usual documents, and also a certificate of

United States v. Murphy.

approval by the Departmental Assembly. The grant is also mentioned in the index of grants by the former government.

No doubt was entertained by the Commissioners as to the sufficiency of the proofs on these points, nor is any objection raised in this Court in regard to them.

The evidence discloses a full compliance with the conditions, and the description in the grant and map determines its locality. No objection is raised on the part of the appellants to the confirmation of this claim, and on looking over the transcript we have not perceived any reason to doubt its entire validity.

The decree of the Board must therefore be affirmed.

THE UNITED STATES, APPELLANTS, *vs.* BERNARD MURPHY, CLAIMING THE RANCHO LA POLKA.

THE validity of this claim fully established.

Claim for one league of land in Santa Clara county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

THORNTON & WILLIAMS, for Appellee.

It is unnecessary in this case to recapitulate the facts, which are fully stated in the opinion of the Board of Commissioners.

The genuineness of the grant, and the residence of the grantee and his children on the land for more than twenty years, are fully established.

The only difficulty in the case is obviated by the form of decree entered by the Board, and which it is now prayed may be affirmed by this Court.

No objections having been raised on the part of the appellants, and none having been discovered by us, a decree as prayed for must be entered.

United States v. Rodriguez.

THE UNITED STATES, APPELLANTS, *vs.* ROBERT H.
THOMES, CLAIMING THE RANCHO SAUCOS.

THE validity of this claim undoubted.

Claim for five leagues of land in Colusi county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

E. O. CROSBY, for Appellee.

In this case an appeal has been taken on the part of the United States, but no reason for rejecting the claim is mentioned by the District Attorney, nor do there seem, on examining the record, to be any grounds for doubting its validity. The original grant is produced, as well as the expediente from the archives, with the record of approval by the Departmental Assembly. The conditions have been fully complied with, and the map and the description in the petition to which the conditions of the grant refer identify the land.

The claim of the appellee must therefore be confirmed.

THE UNITED STATES, APPELLANTS, *vs.* MARIA CONCEPCION VALENCIA DE RODRIGUEZ *et al.*, CLAIMING THE RANCHO SAN FRANCISQUITO.

No objection to this claim made by the United States.

Claim for three-fourths of one league of land in Santa Clara county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

STANLEY & KING, for Appellees.

The grant in this case was made on the first day of May, 1839,

United States *v.* Thomes.

by Governor Alvarado, to Antonio Buelna, the husband of the claimant. Buelna, after obtaining his grant, appears by the proofs to have occupied and cultivated his land and continued to live there with his family until his decease. The present claimant, his widow, seems to be his sole heir.

The United States have taken an appeal in this case, but it is submitted to us as usual without argument, or the statement of any objection to the validity of the claim.

The genuineness of the grant seems to be fully proved, and the Board have confirmed the claim according to a judicial measurement, which on a resurvey has been found to include less than the quantity mentioned in the grant.

We think the decree of the Board should be affirmed.

THE UNITED STATES, APPELLANTS, *vs.* ALBERT G.
THOMES, CLAIMING THE RANCHO RIO DE LOS MOLINOS.

THE validity of this claim undoubted.

Claim for five leagues of land in Butte county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

E. O. CROSBY, for Appellees.

No additional testimony on the part of the United States has been taken in this Court, nor has any reason for reversing the decision of the Board been suggested—the case having been submitted on both sides without argument.

On looking into the transcript we find the genuineness of the original title fully established by proof. The expediente is duly produced from the archives, containing the petition and usual documents, and also the approval of the Departmental Assembly.

The conditions of the grant seem to have been substantially com-

plied with, and the locality of the land is indicated with great precision by the descriptions in the grant and petition, and the delineations on the map which is found in the expediente.

The decree of the Board must therefore be affirmed.

THE UNITED STATES, APPELLANTS, *vs.* JUAN WILSON,
CLAIMING THE RANCHO GUILICOS.

THE description of the land granted is sufficient, aided by the *diseño*.

Claim for a tract of land, supposed to contain four leagues, in Sonoma county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

B. S. BROOKS, for Appellee.

The claim in this case was confirmed by the Board. No doubt is suggested as to the authenticity of the documentary evidence submitted, and the only point upon which a question was made was whether the grant and map accompanying it sufficiently indicate the granted land — there being no designation of the quantity or number of leagues in the original grant.

The grant bears date on the thirteenth of November, 1839, but was not issued until the twentieth. The signature of the Governor to the original grant is fully proved, and the expediente produced from the archives containing the proceedings upon the petition, the various orders of the Governor, and the decree of approval by the Departmental Assembly.

The requirements of the regulations of 1828 seem to have been substantially complied with, and the land cultivated and inhabited within a reasonable time.

With regard to locating the tract, there seems to be no difficulty. The grant describes it as the parcel of land known by the name of

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"Guilicos," within the boundaries shown in the map which accompanies the petition. On inspecting the map, those boundaries appear to be indicated with tolerable certainty, and it is presumed that by means of it no practical difficulty will be found by the surveyor in laying off to the claimant his land.

A decree of confirmation must therefore be entered.

JOSHUA S. BRACKETT, CLAIMING PART OF THE RANCHO
SOULAJULLE, APPELLANT, *vs.* THE UNITED STATES.

OBJECTION removed by testimony taken in this Court.

Claim for a half-league of land in Marin county, rejected by the Board, and appealed by the claimant.

WILLIAM BLANDING, for Appellant.

S. W. INGE, United States Attorney, for Appellees.

The claim in this case is for a part of the Rancho of Soulajulle, originally granted by Governor Micheltorena to Ramon Mesa. Various other claims have also been made for other portions of the same Rancho, and the testimony in this case is by stipulation agreed to be used in those cases as if specially taken and filed in each.

This claim was rejected by the Board, not on the ground of the invalidity of the original title, but because it did not appear from the mesne conveyances that the land claimed was a part of the original tract granted to Ramon Mesa.

The further evidence taken in this Court removes that objection, and the only question that remains to be decided is as to the validity of the original grant.

The title given to the interested party is produced, and although the evidence of the signatures of the Governor is not as satisfactory as could have been wished, or as we had a right to expect from the facility with which Micheltorena's and Jimeno's signatures

could at any moment be proved in this city, yet as no opposing testimony is offered on the part of the United States, I am inclined to agree with the Board in considering it sufficient, taken with the other testimony in the case, to establish the authenticity of the grant. Had the District Attorney or law agent entertained any doubt of the genuineness of the grant, it is but reasonable to suppose that evidence would have been offered to show that the signatures affixed to the title of the grantee were forgeries. The illiterate character of the witness himself repels the idea that he could have forged the document, and no other person concerned in such a fraud would have trusted the proof of its genuineness to the vague and unsatisfactory testimony of such a witness. But the strongest testimony in confirmation of the claim is found in the facts that the expediente is found in and duly produced from the archives, and that the grantee has occupied and cultivated his land from the time of his grant until the time he sold it to the various claimants now before this Court.

The conditions of the grant having thus been complied with, and the grant itself appearing to be genuine, there is no obstacle to the confirmation of the present claim, or to so much thereof as may be included within the limits of the original grant.

THE UNITED STATES, APPELLANTS, *vs.* HENRY CAMBUSTON, CLAIMING ELEVEN SQUARE LEAGUES OF LAND.

No opposition to the confirmation of this claim.

Claim for eleven leagues of land in Butte county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

VOLNEY E. HOWARD, for Appellee.

The original grant in this case is not produced, but it is shown to

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have been in the possession of the grantee in the year 1850, when it was deposited by him in the government archives, where it still remains.

A traced copy is, however, filed; and the genuineness of the original fully established by proof.

It appears in evidence that efforts to occupy the land were made by the grantee within the year, and that in 1847 he had built a house, stocked his rancho, and cultivated a portion of it under the superintendence of his *mayor domo*.

The exterior boundaries of the tract are sufficiently indicated in the grant, and the quantity of land to be taken within those boundaries is mentioned as eleven leagues, if so much can be found outside of the lands of the neighbors, whose lines are to be respected.

The Commissioners have confirmed this claim, and although the absence of the expediente containing the petition and other proceedings prior to the grant prevents the proof in this case from being of so conclusive character as in many others, yet the Board does not seem to have entertained any doubt as to its genuineness, nor has the claim been opposed in this Court in any argument on the part of the United States. It has been submitted to us for decision without comment, and though we would have desired fuller proofs on the subject, we do not feel at liberty to disregard the uncontradicted evidence which establishes the genuineness of the grant.

The claim must therefore be confirmed.

WILLIAM A. DANA *et al.*, CLAIMING PART OF THE RANCHO
SAN ANTONIO, APPELLANTS, *vs.* THE UNITED STATES.

OBJECTIONS removed by further testimony taken in this Court.

Claim for about six thousand acres of land in Santa Clara county, rejected by the Board, and appealed by the claimants.

JEREMIAH CLARKE, for Appellants.

S. W. INGE, United States Attorney, for Appellees.

The claimants in this case derive their title from a grant made by Governor Alvarado on the twenty-sixth of March, 1839, and confirmed by the Departmental Assembly on the twenty-sixth of May, 1840.

The nonproduction of the original grant is accounted for by the depositions of various witnesses taken in case number two hundred and seventy-five, and by stipulation made evidence in this case: and a copy has been introduced, duly certified by Manuel Jimeno and two assisting witnesses as true and legal, from the original expediente in the office of the Secretary. This certificate is dated October 14th, 1843.

A certificate signed by Manuel Micheltorena, Governor, and M. Jimeno, Secretary, dated October 12th, 1843, is also produced, from which it appears that the grant was confirmed by the Departmental Assembly on the twenty-sixth of May, 1841. It also directs that this certificate be delivered to the interested party in confirmation of his grant.

A copy of the expediente from the archives is also produced, containing the original petition and *diseño* of the land solicited and the subsequent proceedings thereon, including the decree of concession, the approval of the Departmental Assembly, the Governor's certificate in confirmation of the grant, and a copy of the title delivered to the grantee.

The authenticity and genuineness of these documents are fully established by proof.

The conditions of the grant appear to have been fully complied with, and the description in the grant and the delineation of the tract on the *diseño* identify the land with sufficient certainty.

The claim in this case was rejected by the Board of Commissioners for defect in the chain of mesne conveyances, through which the claimants derive their title. Those defects have since been supplied, and the title of the claimants seem to be regularly deduced from the original grantee.

With respect to the original grant, there seems to be no controversy. Its validity was not doubted by the Board, and it has been

United States v. Peralta.

confirmed in another case now before this Court. But the claim in the present case is for a certain part of the tract originally granted, which is alleged to have been sold after the decease of the grantee by his executor to pay his debts. A deed from the heirs of the grantee is also produced, conveying to the purchaser the same land bought by him at the sale by the executor.

The present claimants have thus shown a *prima facie* right to the land petitioned for, and as it is clear that the United States have no rights in the land as part of the public domain, we consider it our duty to confirm this claim and to leave the parties to litigate between themselves any questions which may arise as to the validity of the executor's sale or the conveyance by the heirs of the original grantee. The decree of this Court can have no effect upon the conflicting rights of third parties, and merely determines the validity of the claim as against the United States.

The elaborate and conclusive argument of Mr. Commissioner Thornton, on the right of contesting claimants to intervene in a suit before the Board, relieves us from the necessity of discussing the question involved in this case, especially as no opposition is made to the confirmation of this claim on the part of any persons holding adverse titles to the land.

The claim must therefore be confirmed to so much of the land petitioned for as is contained within the boundaries of the tract granted to Prado Mesa.

THE UNITED STATES, APPELLANTS, *vs.* SEBASTIAN PERALTA *et al.*, CLAIMING THE RANCHO RINCONADA DE LOS GATOS.

THE validity of this claim fully established.

Claim for one league and a half of land in Santa Clara county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

A. P. CRITTENDEN, for Appellees.

The grant under which this claim is made was issued by Governor Alvarado on the twentieth of May, 1840. The original title is produced, and the signatures fully proved, and also a certificate of approval by the Departmental Assembly.

The land seems to have been occupied prior to the grant, and a house was built in which the parties have ever since continued to reside.

The land granted is described as the "Rinconada de los Gatos," and the third condition limits the quantity to one league and a half, as shown on the map. On recurring to the map, we find the tract solicited indicated with tolerable precision, and sufficiently so to enable a surveyor to locate it without difficulty.

The claim was confirmed by the Board, and we think their decision should be affirmed.

THE UNITED STATES, APPELLANTS, *vs.* ANTONIA CAZARES, CLAIMING THE RANCHO CAÑADA DE POGOLOME.

THE validity of this claim not doubted.

Claim for two leagues of land in Marin county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

HALLECK, PEACHY & BILLINGS, for Appellee.

It appears from the documentary evidence in this case that James Dawson, the deceased husband of the present claimant, on the twenty-seventh of December, 1837, presented a petition to the Commanding General, setting forth that he, together with McIntosh and one James Black, had obtained a grant for the place called "La Punta del Estero del Americano;" that he had built a house upon it, and planted a large vineyard and an orchard with more

than two hundred fruit trees, and had placed upon it cattle, horses, &c. He further represented that the grant had been obtained in partnership with the two persons mentioned, but that McIntosh was attempting to eject him. He therefore prayed that he might be protected in his rights.

The petitioner, though he had long resided in the country, does not appear to have been naturalized at the time of making this petition, but the documents show that letters of naturalization were obtained by him on the twenty-ninth of December, 1841.

On the eighteenth of September, 1843, he renewed his application to be put in possession of the land, and the Governor to whom this second petition was addressed referred it to the Secretary for information. By the report of that officer it appears, that although the petition for the land had been in the name of the three applicants, yet the grant had been made to McIntosh solely, as he alone possessed the essential requisite of being a naturalized Mexican citizen. The Secretary therefore suggests that although the request of Dawson cannot be granted, yet inasmuch as he had since been naturalized, and had married a Mexican woman, his application for another piece of land should be favorably considered.

The Governor, in accordance with this suggestion, on the twenty-first of October, 1843, ordered the proceedings to be returned to the party interested for his information. It is presumed that it was in this way that these documents came into the parties' possession, and are not now found among the archives.

It does not appear that Dawson petitioned for a grant before his death, which occurred very soon after; but a grant is produced in which it is recited that his widow, the present claimant, having sufficiently proved the right of her deceased husband to petition for the land which she then occupied, and in consideration of the great losses sustained by her husband on separating himself from McIntosh, and the favorable reports, &c., the Governor grants to her the land solicited, known by the name of the "Cañada de Pogolome," to the extent of two square leagues, a little more or less.

It is this land which is now claimed by the appellee. This grant was issued on the twelfth of February, 1844, and it appears to have

been approved by the Departmental Assembly on the twenty-sixth of September, 1845.

The genuineness of the above documents is fully proved ; and it is also shown that the land was long occupied by Dawson before his decease, and since then by the present claimant.

Although the expediente for this grant is not among the archives, yet, as observed by the Commissioners, " its notoriety, the long possession, and the circumstances surrounding it, relieve it from any suspicion of fraud or forgery."

The boundaries, as well as the extent of the land, are specified in the grant, and indicated with evident precision on the map to which it refers.

We think, therefore, that the claim is valid and ought to be confirmed.

THE UNITED STATES, APPELLANTS, *vs.* THE HEIRS OF
EDWARD A. BALE, DECEASED, CLAIMING THE RANCHO
CARNE HUMANA.

No objection to this claim urged by the United States.

Claim for four leagues of land in Napa county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

HALLECK, PEACHY & BILLINGS, for Appellees.

It appears from the expediente in this case that Edward A. Bale on the fourteenth of March, 1841, petitioned Governor Alvarado for a tract of land in Sonoma, and appended to his petition a report of the Commanding General showing the land to be vacant.

The application to the Commanding General and his marginal order thereon are found in the expediente, from which it appears that the land asked for was called by the Indians " Huilic Noma." This application is dated Sept. 12th, 1840, and the Commanding

General, by his marginal order, gives permission to the applicant to occupy the land, directing him to petition the Political Chief for the corresponding title.

In the petition to the Governor, made in pursuance of this order, the name of the land is not given, and the petitioner promises to present a map of the tract solicited.

In the order of concession by the Governor, the land is called "Huile Noma," and the corresponding title is ordered to be issued to the party. In the draft of this title, found in the expediente and dated March 14th, 1851, the land is designated by the same name. But in the formal document delivered to the grantee, which bears date on the twenty-third of June, 1841, the land is called "Carne Humana," and the boundaries are designated with more particularity, and apparently in conformity with the map which accompanies the expediente. The grant does not allude to this map, but it is most probable, as supposed by the Board, that the map which the petitioner promised to present had been furnished in the interval between the fourteenth of May, the date of the order of concession and the draft of the title in the expediente, and the twenty-third of June, the date on which the formal title was executed to the grantee. There seems no reason to doubt that the land petitioned for and conceded on the fourteenth of May is the same as that for which the title issued on the twenty-third of June.

It appears in proof that the grantee occupied the land called "Carne Humana" as early as 1838; that he built a house on it, cultivated a considerable portion of it, and continued to reside on it until his death. His family was living upon it at the time the depositions were taken before the Board.

It further appears, that judicial possession was given to Bale on the eleventh and twelfth of September, 1845, with the usual formalities required by the Mexican laws. This fact is established by the evidence of the Alcalde, and the colindantes who officiated on the occasion—the records of the proceedings, which had been deposited in the Alcalde's office at Sonoma, being shown to have been destroyed at the time the office was taken possession of by the "Bear Flag" party.

The genuineness of the signatures to the original document is proved. The claim was confirmed by the Board, and has been submitted to us without argument, or the statement of any objection on the part of the United States to its confirmation. We see no reason to doubt its validity, and think a decree of confirmation must therefore be entered.

The transcript in this case contains several petitions of intervention by different parties, claiming portions of the land originally granted to Bale, under various conveyances. The Board, in accordance with its decision in case No. 2 on their docket, have not attempted to adjudicate upon the conflicting titles of these claimants, and have merely affirmed the validity of the original grant, leaving the adverse titles of the heirs and other claimants under the original grant to be litigated before the ordinary tribunals.

No appearance in this Court has been entered, except on behalf of the original claimants before the Board; nor is any objection made to an affirmation of the decree of the Board in its present form, except that in this case, as in all cases of claims confirmed by the Board, an appeal has been taken on the part of the United States.

We think, therefore, that the decree of the Board should be affirmed.

THE UNITED STATES, APPELLANTS, *vs.* THE HEIRS OF
FRANCISCO GUERRERO, CLAIMING THE RANCHO CORRAL
DE TIERRA.

THE validity of this claim fully established.

Claim for a league and three-fourths of land in San Francisco county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

HALLECK, PEACHY & BILLINGS, for Appellees.

It appears from the expediente on file in the archives that on the eighth of December, 1838, the grantee petitioned Governor Alvarado for the place called "Corral de Tierra," of the extent of one and a half leagues long and three-fourths of a league wide. After the usual informes or reports from the officers to whom the petition was referred, the Governor *ad interim*, M. Jimeno, on the sixteenth of October, 1839, made a concession of the land as solicited, but of the extent of only one square league. And the expediente having been sent to the Departmental Assembly, it was by that body approved on the twenty-second of May, 1840.

In April, 1842, the grantee presented another petition to Micheltorena, the then Governor, soliciting an extension or additional grant of a small piece of land, about three-fourths of a league, lying between the rancho of El Corral de Tierra and that of Tiburcio Vasquez. After the usual references for information, the Governor, on the first of May, 1844, ordered the title to issue. And the title bearing that date is produced by the claimants, as also that previously obtained for one square league. After receiving the second grant, the grantee, on the second of April, 1841, petitioned the Departmental Assembly for its confirmation, and the expediente contains a favorable report of the committee on vacant lands, to which it was referred, dated June 9th, 1846. The expediente contains no evidence of the final passage of the resolution of approval as reported by the committee, but the original title produced by the claimant has attached to it the usual certificate of approval by the Departmental Assembly on the twelfth of June, and signed by the Governor, Pio Pico, and José Matias Moreno, Secretary.

The genuineness of the documents produced by the claimants is established by proof, and is corroborated by the production of the expediente, and by the notorious and continued occupation of the land by the grantee and his family since 1839, the date of his first grant.

We see no reason to doubt the entire validity of this claim, and we think it should be confirmed.

A decree affirming the decision of the Board must therefore be entered.

THE UNITED STATES, APPELLANTS, *vs.* JOAQUIN CARRILLO, CLAIMING THE RANCHO LLANO DE SANTA ROSA.

No reason for doubting the entire validity of this claim.

Claim for three leagues of land in Sonoma county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

HALLECK, PEACHY & BILLINGS, for Appellee.

It appears from the expediente in this case that the claimant, on the twenty-second of June, 1843, petitioned Governor Micheltorrena for a grant of land on the plain adjoining the rancho of his mother. The Governor, however, suspended action on the subject, as no judicial measurement had been made of the adjoining ranchos, and the extent of the sobrante or surplus reserved was not ascertained.

On the twelfth of March, 1844, the claimant applied to the Alcalde of the district for permission to sow, and build a house upon the land, during the pendency of his application to the Governor for a grant. The Alcalde granted him leave to sow the land, holding himself responsible to the owners of the lands if there should be any damage, but he refused him permission to build the house.

On the twenty-sixth of March, 1844, the claimant renewed his application to the Governor, stating that his petition still remained unacted upon on account of the neglect of the colindantes or adjoining proprietors to have their lands measured according to law.

The Secretary, to whom this second petition was referred, reported favorably to it, and advised a grant of not more than three square leagues, subject to the measurements of the adjoining proprietors.

In accordance with this report, the grant now produced was made ; and it appears in evidence that he built first a small house and afterwards a very large one on the land, on which he has con-

tinued ever since to reside. He has also cultivated from one to three hundred acres of it with corn, barley, wheat, &c.

The handwriting of the grant in the possession of the party is fully proved, and there seems no reason to doubt the entire validity of this claim. The map and the designation in the grant of the colindantes or conterminous owners abundantly show the locality of the tract granted; and the claimant's title to the land solicited must be confirmed to the extent of three leagues, subject to the measurement of the land previously granted to the colindantes.

The decision of the Board must, therefore, be affirmed.

THE UNITED STATES, APPELLANTS, *vs.* THE HEIRS OF
FRANCISCO GUERRERO PALOMARES, CLAIMING A LOT
IN THE MISSION DOLORES.

THE validity of this claim not contested.

Claim for a lot four hundred varas square in San Francisco county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

HALLECK, PEACHY & BILLINGS, for Appellees.

It appears from the documentary evidence in this case that Governor Figueroa's order, dated March 5th, 1835, directed the Commissioner of San Solano to furnish to such individuals of the colony as might desire to remove and establish themselves elsewhere, the necessary assistance to pass the bay, and to report to the Government the persons who might do so, with their places of destination.

On the fourth of November, 1836, Francisco Guerrero petitioned Gov. Gutierrez, who had succeeded Figueroa, for a piece of land near the Mission, and referred to the previous order of Figueroa allowing a settlement on any land that might be selected.

This petition was referred to the Administrator of the Mission of San Francisco, by whom a favorable report was made, and the Gov-

ernor, on the thirtieth of May, 1836, granted to Guerrero the four hundred varas solicited according to his petition.

The signatures of the documents are proved to be those of the officers by whom they purport to have been signed, and it is further proved that the grantee almost immediately after went upon his land, built a house upon it, fenced it and converted it into a garden—it having been before marshy and unoccupied. The grantee and his family, the present claimants, continued to reside upon it until his death in 1851.

No objections to this grant are made on the part of the United States. It was confirmed by the Board, and we see no reason for reversing their decision.

The title of the claimants must therefore be confirmed.

ELIZABETH DE ZALDO, CLAIMING A LOT IN THE MISSION
DOLORES, APPELLANT, *vs.* THE UNITED STATES.

OBJECTION removed by further testimony in this Court.

Claim for a lot fifty varas square in San Francisco county, rejected by the Board, and appealed by the claimant.

STANLY & KING, for Appellant.

S. W. INGE, United States Attorney, for Appellees.

The claim in this case is for a fifty vara lot in the former Mission of Dolores. It is founded on a grant by Francisco Sanchez, Justice of the Peace, to one Carlos Moreno or Charles Brown.

The genuineness of the grant and the delivery of possession to the grantee are fully proven.

The claim was rejected by the Board for want of the necessary mesne conveyance to connect the title of the present claimant with that of the original grantee. That defect has been supplied in this Court, and no objection to the confirmation is perceived by us or is suggested on the part of the United States.

United States v. Bernal.

THE UNITED STATES, APPELLANTS, *vs.* JOSE SANTOS
BERREYESA, CLAIMING THE RANCHO MALLACOMES.

THE confirmation of this claim not disputed.

Claim for four square leagues of land in Napa county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

THORNTON & WILLIAMS, for Appellee.

The genuineness of the grant is fully proved, and the circumstances mentioned appear in the expediente which is found in the archives.

The boundaries of the land are proved to be well defined, being on three sides high mountains, on the fourth the rancho of Dr. Bale, from which the claimant's land is separated by an arroyo having a mill upon it erected by Dr. Bale.

The claim was confirmed by the Board. No objection is urged on the part of the United States, and we think their decision should be affirmed.

THE UNITED STATES, APPELLANTS, *vs.* CARMEN SIB-
RIAN DE BERNAL *et al.*, CLAIMING A LOT IN THE MISSION
DOLORES.

No objection to this claim made by District Attorney.

Claim for a lot two hundred varas square in the county of San Francisco, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

HALLECK, PEACHY & BILLINGS, for Appellees.

The claim in this case is for a solar in the Mission of Dolores.

It appears to have been granted by Governor Figueroa on the recommendation of the priest of the Mission, and in consideration of services rendered to the Mission by the claimant as *mayor domo*.

No argument was had in the case at the hearing, nor did the District Attorney suggest any objection to the validity of the grant. The claim was confirmed by the Board, and we think their decision, in the absence of any showing to the contrary on the part of the Government, ought to be affirmed.

THE UNITED STATES, APPELLANTS, *vs.* ANTONIO MARIA
OSIO, CLAIMING ANGEL ISLAND.

THE grant in this case was made under the express authority of the Mexican Government.

Claim for Angel Island, situated in the Bay of San Francisco.

S. W. INGE, United States Attorney, for Appellants.

BATES & LAWRENCE, for Appellees.

The claim in this case is founded on a grant made by Governor Alvarado on the eleventh day of June, 1839.

The expediente is produced from the archives, and the genuineness of the original grant fully established.

The island which is the subject of the grant appears to have been used almost immediately after the grant by the claimant for the raising of cattle, horses, etc., a considerable number of which he placed upon it. He also built upon it a small house, which was occupied by his *mayor domo*.

The claimant, although he did not personally reside on the island, frequently visited it; and on one occasion remained upon it three months, superintending, among other things, the erection of a dam to form a reservoir for the use of his cattle. His title to the land seems to have been generally known and recognized, and the cattle upon it were marked with his brand. He afterwards built three

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other houses and put a portion of the land under cultivation, and at the time of the war his cattle were used to the number of five hundred.

The only doubt which can be suggested with regard to the validity of the claimant's title is, whether the Governor had a right to grant islands upon or near the coast. ✓

But it appears that the grants of this and other islands were made by the express direction of the Superior Government of Mexico; and the Governor was enjoined to grant the islands to Mexicans in order to prevent their occupation by foreigners, who might injure the commerce and fisheries of the Republic, and who, especially the Russians, might otherwise acquire a permanent foothold upon them.

We agree with the Board in the opinion that this express authority to make these grants removes all doubt on the subject.

The Board have unanimously confirmed this claim, and we see no reason for reversing their decision.

Their decree must therefore be affirmed.

THE UNITED STATES, APPELLANTS, *vs.* JOHN B. R.
COOPER, CLAIMING THE RANCHO EL MOLINO.

No objections made to the confirmation of this claim.

Claim for four leagues of land in Sonoma county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

HALLECK, PEACHY & BILLINGS, for Appellee.

The claimant in this case, a naturalized Mexican citizen, obtained in December, 1833, a grant from the Governor for the place called Rio Ojotska. This grant was approved by the Departmental Assembly, and a certificate of its confirmation delivered to the grantee, as appears from the testimony, and the expediente filed in this case.

He subsequently applied to the Governor for an exchange of the land granted for that now claimed by him. Proceedings on this application were commenced by Governor Figueroa, and the new grant was made, as desired by the petitioner, by Governor Gutierrez on the twenty-fourth of February, 1836.

These facts are proved by the testimony of Hartnell and Vallejo, whose evidence is corroborated by the expediente on file in the archives.

The genuineness of the grants is fully established.

Previously to obtaining the last grant, the claimant had gone into possession of the tract solicited, and had built a house upon it. He also had, as early as 1834, placed a considerable number of cattle upon it, and had commenced the erection of a mill, upon which he expended more than \$10,000. He also erected a blacksmith shop, and for two years had employed upon his Rancho men to the average number of sixteen, and sometimes thirty or forty Indians.

It is clear that the grantee fulfilled the conditions and carried out the objects of the colonization laws to an extent very unusual in the then condition of the country.

With regard to the location of the land, it appears from the testimony of O'Farrell and other witnesses, who are acquainted with the adjacent country, that there is no difficulty in ascertaining its locality by means of the *diseño* which accompanies the grant. O'Farrell, who had long been a surveyor under the Mexicans, testifies that he has, by means of the grant and the *diseño*, made a survey of the land, and that it contains, as surveyed by him, only the quantity specified in the grant.

This claim was held to be valid by the Board. No objections to it are suggested on the part of the United States, and we are of opinion that the decision of the Board should be affirmed.

United States v. Moraga.

THE UNITED STATES, APPELLANTS, *vs.* JOAQUIN MORAGA, CLAIMING THE RANCHO LAGUNA DE PALOS COLORADOS.

THE validity of this claim undoubted.

Claim for three leagues of land in Contra Costa county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

BATES & LAWRENCE, for Appellee.

The claimants in this case petitioned on the thirtieth of August, 1835, for the place called "Laguna de los Palos Colorados."

The petition was referred to the Ayuntamiento del Pueblo de S. José Guadalupe, and also to the Rev. Padre, for their reports. On receiving these reports, which were favorable, José Castro, Primero Vocal of the Assembly and Political Chief, *ad interim*, made his concession on the tenth of October, 1835, and directed that when the Departmental Assembly should have approved the grant the corresponding title should issue.

On the twelfth of October, 1835, the concession was approved, but the "title" does not seem to have issued until the thirty-first of July, 1841.

All the foregoing facts appear from the expediente on file in the archives of the former Government.

The claimants have also produced the original title delivered to them, which bears date on the tenth of August, 1841, to which is attached a map or *diseño* certified by Jimeno, Secretary of the Government, to be a copy of that accompanying the expediente. The translation of this certificate seems to be omitted. There also accompanies this document the certificate of approval by the Departmental Assembly, and a note or record of an arrangement between Moraga and Candelario Valencia, who seems to have been a *colindante* or *coterminous* owner, fixing their common line and providing for the use in common of an *ojo de agua* or spring of water which is on the land.

The authenticity of all these documents is fully proved, and it is

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shown that in 1836 the parties went upon the land, built houses, corrals, and placed cattle upon it, and cultivated a considerable portion.

The boundaries of the tract are given with some precision in the original grant, and it appears in evidence that the limits of the rancho are well known to those residing in its vicinity.

The claim was confirmed by the Board, and we think their decision should be affirmed.

WILLIAM BENNITZ, CLAIMING THE RANCHO BREISGAN, APPELLANT, *vs.* THE UNITED STATES.

THE validity of the Sutter general title was affirmed by the Circuit Judge in case No. 33—*United States v. Hensley*.

Claim for five leagues of land in the county of Shasta, rejected by the Board, and appealed by the claimant.

JEREMIAH CLARKE, for Appellant.

S. W. INGE, United States Attorney, for Appellees.

The appellant in this case claims under the general grant by Governor Micheltorena on the twenty-second of December, 1844, which has already been considered and passed upon by this Court in the case of *S. J. Hensley*.

It appears in evidence that the present claimant was one of those in whose favor Capt. Sutter had reported, and for whose benefit the general grant was made.

It further appears that the claimant in 1845 placed a tenant upon the land, by whom a portion of it was cultivated, and who continued to reside upon it until the summer or fall of 1846, when he was killed by the Indians. There seems no reason to suppose that the claimant ever abandoned his grant, and under the ruling of this Court in the case of *Hensley*, we think the claim should be affirmed.

THE UNITED STATES, APPELLANTS, *vs.* JOAQUIN Y. CASTRO, ADMINISTRATOR OF FRANCISCO MARIA CASTRO, DECEASED, CLAIMING THE RANCHO SAN PABLO.

No opposition to the confirmation of this claim.

Claim for about four leagues of land in Contra Costa county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

SAUNDERS & HEPBURN, for Appellee.

This case has been submitted to this Court on appeal without argument or the statement of any objection to its validity. We have, however, as in other cases, examined the transcript, which is unusually voluminous, and have perceived no obstacle to its confirmation.

The first application for the land appears to have been made by Don Francisco Castro in 1823, and to have been addressed to the Deputation. On the same day a decree was made granting the place solicited, and directing the Military Commander of the Presidio of San Francisco to put the petitioner in possession. This seems, from various causes, not to have been done, nor does the title to the land appear to have issued to Francisco Castro during his lifetime, although, as appears from the expediente, he had gone upon the land, placed cattle upon it, and from time to time solicited of the Governor the formal title.

On his death, his son and the administrator of his estate, Joaquin Ysidro Castro, petitioned the Governor on the twenty-sixth of May, 1834, for the land occupied by the family, stating it to be three leagues in extent, and annexing to his petition a map of the land solicited. The Governor, after having caused the documents on file in the case of the previous application of Francisco Castro to be produced, acceded to the petition, and on the twelfth of June, 1834, the formal title issued to the successors of Francisco Castro. In this title the boundaries of the land are mentioned, and refer-

ence is made to the map which accompanies the expediente. The extent of the land granted is stated to be three square leagues, more or less.

On the twenty-third of June, 1835, Joaquin Ysidro Castro presented another petition to the Governor, in which he states that he had through inadvertence neglected to ask for all the land included in the boundaries indicated on the *diseño*, and he solicits an augmentation of the previous grant so as to include the whole tract designated on the map. By the report of Negrete, the Secretary to whom the Governor referred this petition, it appears that the land comprised within the boundaries referred to had been ascertained to be of the extent of four and one twenty-fourth square leagues.

On the fourteenth of August, 1835, the Governor granted to the successors of Francisco Castro the augmentation solicited, and on the twentieth of August, 1835, the formal title was issued for the land as originally bounded, and in the fourth so called condition of the title, the extent of the tract is declared to be "four square leagues and a little over, including the surplus which by the decree of the fourteenth of August of the present year was granted to them, and as shown by the map which accompanies the expediente and already conceded to them."

It is this tract of four square leagues and a little over that is now claimed by the appellees.

All the above recited facts appear from the expedientes on file. The authenticity of the original documents produced by the interested parties is fully proved, and their long continued occupation and extensive improvements of the land for more than thirty years clearly established. It also appears that the grant was approved by the Departmental Assembly.

We are of opinion therefore that this claim is valid, and that the decision of the Board should be affirmed.

Grimes v. United States.

HIRAM GRIMES *et al.*, CLAIMING THE RANCHO EL PESCA-
DERO, APPELLANTS, *vs.* THE UNITED STATES.

OBJECTIONS removed by additional testimony, and by the ruling of the Supreme Court in Fremont's case.

Claim for eight leagues of land in San Joaquin county, rejected by the Board, and appealed by the claimants.

A. C. WHITCOMB, for Appellants.

S. W. INGE, United States Attorney, for Appellees.

The claim in this case was rejected by the Board of Commissioners. Since the filing of the transcript in this Court, additional testimony has been taken, and the case has been submitted on the brief filed by the counsel for the appellees. No argument was made or brief filed on the part of the United States, and the District Attorney, it is presumed, relies upon the objections to the claim which are set forth in the opinion of the Board.

With regard to the delivery of the original grant to the grantee, the Commissioners, although their decision is not placed upon that ground, seem to have entertained some doubt, from the fact that it is not produced by the claimants. But we think that this objection, whatever force it might have under the testimony submitted to the Board, is entirely obviated by the evidence of Mr. Evershed, Capt. Halleck and Balentin Higuera, taken in this Court. The circumstance that the grant is found among the archives and not in the possession of the party is by these witnesses satisfactorily explained.

With regard to the performance of the conditions, it appears that the original grantees had, before obtaining the grant, but subsequently to the date of their application to the Governor for the land, built a corral upon it and placed there about two hundred head of horses and some work oxen. Higuera also built a sort of rude hut in which he lived, and the witness Romero testifies that he was on the Rancho about fifteen or sixteen days assisting Higuera. The further improvement of the land seems in some degree to have been prevented by the Indians, and in 1849 the grantees

sold out to McKee, under whom the appellants claim, and who appears to have laid out a city on the Rancho. There were in 1850 six frame buildings on the site of the intended city, and McKee seems to have expended considerable sums of money on his purchase.

It is also stated in the deposition of Hernandez, whose Rancho adjoined that of Higuera and Feliz, (the grantees in this case) that the latter occupied the land along the San Joaquin river up to the Arroyo de la Puerta, and had upon it a corral and a house on the banks of the San Joaquin, about opposite the Stanislaus river. The witness, however, assigns no date at which the corral and house were erected.

Higuera, one of the original grantees, who swears that he no longer has any interest in the case, testifies that soon after obtaining the grant he built a corral and house on the land, and had cattle and horses thereon, but took them away in 1849 through fear of the Indians.

Under all the testimony of the case, we think there is nothing to show that the performance of the conditions has been unreasonably delayed, or that the grantees had abandoned their grant. The objection, therefore, of nonperformance of conditions must, under the principles laid down in *The United States vs. Fremont*, be overruled.

With regard to the location of the grant, there seems to be no difficulty. In the title the land is described as the tract known by the name of "Pescadero," and bounded by the river, by Buenos Ayres to the Pass of Pescadero, and the limits which shall be set at the time of the possession, on the side of the valley. In the fourth condition, the land is declared to consist of eight leagues, or a little less, as the corresponding map explains. On reference to the map the boundaries of the tract appear to be delineated with tolerable accuracy, and the testimony in the case leaves no room for doubt that its limits are well known and capable of being precisely ascertained. The grant, it will be perceived, mentions two boundaries—the river (San Joaquin) and Buenos Ayres to the Pass of the Pescadero. The Arroyo de la Puerta seems also indicated as the southerly boundary of the map, but all doubt on this subject

United States v. Boggs.

is removed by the evidence, not only of the colindantes and others who testify as to the extent and boundaries of what was known as the Pescadero Rancho, but by the production of the expediente for the Hernandez Rancho, which lies immediately to the south of the tract now claimed. In the *diseño* which accompanies that expediente, the Arroyo de la Puerta is distinctly marked as the *lindero* or boundary of the two Ranchos, the Arroyo forming in fact the northern boundary of the Hernandez and the southern boundary of the Pescadero Ranchos. The boundaries seem thus to have been fixed or recognized by the highest authority, the Governor himself, almost contemporaneously with the grant, for the Hernandez concession was made but a few days after the grant under consideration.

The above are all the objections to the validity of the grant which are noticed in the opinion of the Commissioners, and none other have been suggested to this Court.

The expediente in this case is defective, for the decree of concession is not contained in it. Whatever suspicions this fact might give rise to, are dispelled by the proofs which have been submitted of the execution and delivery of the formal title to the grantees, and the almost contemporaneous grant to Mariano and Pedro Hernandez, in which the Governor mentions the land of "Don Balentin Higuera" as one of the boundaries of the tract granted to them.

The mesne conveyances seem to be regular, and a decree of confirmation must therefore be entered.

THE UNITED STATES, APPELLANTS, *vs.* L. W. BOGGS,
CLAIMING PART OF THE RANCHO NAPA.

No objections urged to the confirmation of this claim.

Claim for six hundred and forty acres in Napa county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

HALLECK, PEACHY & BILLINGS, for Appellee.

The claim in this case is for a portion of the tract called Napa, originally granted to Salvador Vallejo by Governor Alvarado on the twenty-first of September, 1838.

The claim was confirmed by the Board, and the case has been submitted to this Court without argument or the statement of any objection on the part of the United States.

The documentary and other evidence shows that the original grant was duly issued by the Governor, and approved by the Departmental Assembly on the twenty-third of September, 1838. Judicial possession of the tract was given to the grantee in 1844, but before that time, and at or about the period he obtained his grant, he occupied the land, built a house upon it and corrals, and had cattle and horses upon it. Shortly after the war, the appellee purchased of the original grantee the portion now claimed. He immediately commenced making improvements, and has continued to occupy until the present time.

There seems to be no doubt as to the validity of this claim. A decree of confirmation must therefore be entered.

THE UNITED STATES, APPELLANTS, *vs.* ANTONIO SUÑOL
et al., CLAIMING THE RANCHO LOS COCHES.

THIS claim submitted without argument on behalf of appellants.

Claim for a half-league of land in Santa Clara county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

HALLECK, PEACHY & BILLINGS, for Appellees.

The claim in this case was unanimously confirmed by the late Board of Commissioners. It has been submitted to this Court on the proofs taken before the Board, and without argument on the part of the appellants, or the statement of any objection to its validity.

On reference to the opinion of the Board, we find but two questions discussed, and which, it is presumed, were the only points made on the part of the United States.

The first relates to the location of the grant. The Board, after an elaborate and thorough examination of the testimony, arrive at the conclusion that the calls in the grant and the delineation of the tract on the *diseño* are abundantly sufficient to enable a Surveyor to locate the grant. On examining the transcript, this opinion of the Board seems fully sustained by the proofs, and the doubts or difficulties felt by some of the witnesses as to the proper location of the land seems to have originated in a misconception of the true meaning of some of the calls in the grant. The grantee is shown to have occupied his land from a period anterior to his grant; to have lived there with his wife and children, and to have made considerable improvements.

To the discussion of the second and more important question, whether Roberts, the original grantee, being an Indian, had a right to receive grants of land under the Mexican laws, and to convey the land so granted, the Board devote a large portion of their opinion. ✕ But that question has been settled in the Supreme Court in accordance with the views expressed by the Board, and is no longer open for argument in this Court.

The genuineness of the original documents is not questioned, and the title of the present claimant appears to have been regularly derived from the original grantee and his heirs, and to have been accompanied by possession.

A decree affirming the decision of the Board must therefore be entered.

THE UNITED STATES, APPELLANTS, *vs.* JUANA BRIONES,
CLAIMING THE RANCHO LA PURISIMA CONCEPCION.

THE validity of this claim undoubted.

Claim for one square league of land in Santa Clara county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

HALLECK, PEACHY & BILLINGS, for Appellee.

The Board of Commissioners, in their opinion in this case, observe that it presents no point of doubt or difficulty. The genuineness of the original grant is fully established. The grantees are shown to have been in the possession and occupation of the land for several years prior to their grant, and continued to reside on it until 1844, when, with the permission of the Governor, it was sold to the present claimant. The latter has resided on it up to the time of the filing of her petition.

In a note appended to the original grant, the boundaries are indicated with much precision; and the grant declares the quantity of land granted to be one square league.

No objection was made to this claim on behalf of the United States, and we think it should be confirmed to the appellee.

A decree to that effect will therefore be entered.

THE UNITED STATES, APPELLANTS, *vs.* NATHANIEL
BASSETT, CLAIMING THE RANCHO LOS COLUSES.

THE validity of claims under the Sutter General Title, affirmed in Hensley's case, No. 33.

Claim for four leagues of land in Butte county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

E. O. CROSBY, for Appellees.

The original grantee in this case was one of those who petitioned Governor Micheltorena in 1844, and whose lands were granted in the general grant dated December 22d, 1844. The validity of this grant has been already passed upon by this Court in the case of *The United States vs. Samuel J. Hensley*, and as the grantee

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in this case is proved to have been one of those whose petition was favorably reported on by General Sutter, and to whom the latter caused to be delivered a copy of the general grant, the claim clearly falls within the principles decided in that case.

The grantee is also shown to have occupied and cultivated his land in 1844 under the provisional order or permission granted by the Governor.

No objection is made to the confirmation of this claim on the part of the United States. It was unanimously confirmed by the Board, and we see no reason for reversing their decision.

A decree of confirmation must therefore be entered.

JUAN PEREZ PACHECO, APPELLANT, CLAIMING THE RANCHO
SAN LUIS GONZAGA, *vs.* THE UNITED STATES.

THIS claim entitled to confirmation under the ruling of the Supreme Court in Fremont's case.

Claim for eleven leagues of land in Mariposa county, rejected by the Board, and appealed by the claimant.

STANLY & KING, for Appellant.

S. W. INGE, United States Attorney, for Appellees.

The claim in this case is founded on a grant made by Governor Micheltorena on the fourth of November, 1843. It appears from the expediente, a copy of which is contained in the transcript, that one Mejia petitioned the Governor on the twenty-sixth of September, 1843, for a grant of a tract of land lying at the base of the hillocks which penetrate into the valley of San Joaquin, with the same number of sitios as belonged to Francisco Rivero, to whom the Government of the Department had granted, but who had neglected to occupy it during two years from the date of his grant.

The Governor made the usual reference of this petition to the Prefect and the Secretary for information. The latter officer reported that the land had been granted to Francisco Rivero since

1841, but that inasmuch as the latter had failed to comply with the condition requiring him to build a house within one year, which should be inhabited, he (the Secretary) was of opinion that he had forfeited his right to the land, and that it might be granted to Mejia, the petitioner.

On the third of October, 1843, the Governor ordered the title to issue in conformity with this report.

In the decree of concession, which was made on the fourth of the ensuing month, the Governor recites that, in consideration of the long period which has elapsed "without the land being occupied by Don Francisco Rivero, and without any news of the whereabouts of said individual, and inasmuch as the interested parties have the means of improving and occupying the land," he declares José M. Mejia and Juan Perez Pacheco owners of the tract known as San Luis Gonzaga, bounded by the Rancho of Don Francisco Pacheco, by the Bath called Padre Arroyo's Bath, by the river and the wild Indian country.

In the third condition, the land is declared to be of the extent of eleven square leagues.

The original document delivered to the parties is produced, and the genuineness of the signatures of the Governor and Secretary duly proved. It is in entire conformity with the decree of concession found in the expediente.

By the testimony of José Abrego, it appears that for eight years previous to 1853 the Rancho was in the possession and occupation of the petitioner; that he constructed and occupied several small houses by himself and those in his employment; that he also built several large corrals, and cultivated portions of the land during all that period.

By the depositions of Rodriguez and Dias, taken in this Court, it is shown that the land was occupied as soon as the hostility of the Indians permitted; that the Rancho was peculiarly exposed to their depredations, being on the route most frequented by them in coming from the Tulares. The witness Dias states that he is unable to specify the precise time when the first settlement was effected, but knows that the land was occupied in 1847.

It is obvious that there is no proof that the condition requiring

a house to be built within the year was ever complied with by the grantees, and for the want of such the Board was of opinion that the claim should be rejected, more particularly as the claimants had obtained their grant on a denouncement founded on the neglect of the previous grantee to perform the very same condition which they failed themselves to fulfill.

The proofs taken in this Court show, however, an excuse for non-settlement which was not offered to the Board, and it is very doubtful whether in this case, even had the land been denounced to the Mexican Government, it would have been regranted. It is worthy of observation, that in the decree of concession the Governor states, not only that Rivero, the previous grantee, had failed to occupy the land within the year, but that the period of two years elapsed "without any news of the whereabouts of that individual." It may therefore be reasonably inferred that the land was forfeited, not merely in obedience to a rigorous rule which imposed that consequence as penalty for the nonperformance of the conditions, but because the Governor was satisfied the grantee had abandoned his grant, and had, at all events, failed to show either an effort to fulfill or an excuse for not doing so.

But whatever action the Governor might have taken had this land been denounced as against the present claimants, no such proceeding was had, and the proof shows that a settlement was effected within less than two years from the date of the grant, and during the continuance of the former Government.

The principles laid down in the case of *The United States vs. Fremont* apply therefore with great force to this case. For here there was not only no second denouncement, but the conditions were fully complied with during the existence of the Mexican authority; and the proofs show not only that there was no unreasonable delay or want of effort, but they absolutely repel the idea that the party had abandoned his claim before the Mexican power ceased to exist, and is now seeking to resume it from its enhanced value. It may also be observed that there is no reason to suppose that under the Mexican laws land could in any case be denounced after the conditions had been fulfilled, whether within or after the time limited in the grant.

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The remaining objection to this claim which is noticed in the opinion of the Board is, that the grant is vague and general, and has never been located by competent authority.

But by the testimony taken in this Court, it appears that the natural objects mentioned in the grant are notoriously known, and the description is as accurate as could be given without a survey. On referring to the grant the boundaries seem to be indicated with some precision. The Rancho of Francisco Pacheco, the Bath of Padre Arroyo, and the river (San Joaquin) are all mentioned, and there seems no reason to doubt the statement of the witnesses that by means of these calls the land can, without difficulty, be located. No other objections to this grant are stated in the opinion of the Board, nor are any others raised on the part of the United States, the case having been submitted without argument or suggestion on the part of the appellees.

A decree of confirmation must therefore be entered.

ANDRES PICO, CLAIMING THE RANCHO ARROYO SECO, APPELLANT, *vs.* THE UNITED STATES.

THIS claim must be confirmed under the ruling of the Supreme Court in Fremont's case.

Claim for eleven leagues of land in Amador county, rejected by the Board, and appealed by the claimant.

STANLY & KING, for Appellant.

S. W. INGE, United States Attorney, for Appellees.

The claim in this case is founded on a grant by Governor Alvarado to Teodocio Yorba on the eighth of May, 1840.

The title of the present claimant is derived from the original grantee by deed dated October 4th, 1852.

The genuineness of the original is established by proof, but the only evidence that the grantee ever performed the conditions of the

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grant is contained in the depositions of Luis Arenas, Vicente P. Gomez and Antonio Castro taken in this Court. By the testimony of the first of these witnesses it appears that the rancho in March or April, 1849, was occupied by both Pico and Yorba, and that they had cattle and a small house on the place.

Vicente Gomez swears that he has known the rancho since 1848, and that at that time it was occupied by Pico and Yorba; that they had a log house upon it and cattle and horses. The witness Castro testifies substantially to the same facts.

Neither of these witnesses states positively the reason why the land was not sooner occupied, but they all testify that at the time they mention, and as late as 1848, the Indians were very hostile. It also appears by the testimony of S. Vallejo that from 1840 to 1846 it was impossible to occupy the rancho without the continual presence of the soldiers; that the Indians held almost absolute possession of that part of the country, unless when repelled by a strong military force. Under the former views of this Court, this claim would have been rejected; but the decision of the Supreme Court in the case of the *United States v. Fremont* has laid down other rules for our guidance.

The grant must, under the principles established in that case, be regarded as having given the grantee "a vested interest in the quantity of land therein specified." The only inquiry "is whether the right of the grantee was forfeited by breach of the conditions, and the title revested in the Mexican Government." (*United States v. Fremont*, 17 How. 560.)

If the interest which is adjudged to have vested in the grantee by the unconfirmed grant of the Governor be the legal estate in the land, then the only right which could have passed to this Government would be the right to declare and enforce a forfeiture which had accrued under the former Government.

If, then, by the judgment of the Court, the legal title remaining in the grantee at the time of the acquisition of the country and undivested by any proceeding under the Mexican authority be declared to be forfeited, it would seem that the Court is in effect asserting the "right of the United States by forfeiture for conditions broken to lands which had been once legally granted." The

authority of the Court to make such an inquiry or assert such a right seems to have been doubted in *Sibbald's case* (10 Pet. 321) and in other cases, nor is this Court aware of any case in which that right has been recognized, unless the case of Fremont be so regarded. It may, however, be considered that on the breach of the conditions, the title which had vested in the grantee reverted *ipso facto* to the Government, without any judicial proceeding or other act on the part of the Government manifesting its intention to take advantage of the forfeiture. In that case the legal estate in the land passed to our Government by the treaty, and not the mere right to enforce a forfeiture. Whether such a consequence could have ensued from the mere breach of a condition subsequent, without an entry of the grantor or an office found, is not decided by the Supreme Court; but it would seem more in accordance with the principles which pervade every system of jurisprudence to treat the breach of such conditions as rendering the grant voidable rather than void, and especially where the grantor is a Government which has no motive vigorously to enforce such "clauses of nullity" or "penal clauses," and whose policy it is to regulate their effect by the discretion of the Judge or other officer who enforces them, according to the circumstances of each case.

Under the Mexican system it appears that though a formal judicial inquisition was not invariably instituted to ascertain the forfeiture, yet where land was denounced the inquiry was made whether the forfeiture had occurred or not, and the excuses of the first grantee for nonperformance were heard, and if reasonable received.

If then it be considered that the legal title vested in the grantee by virtue of his grant, and that it did not revert in the Government by the breach of the conditions unless some proceeding were had to ascertain and declare the forfeiture, it would seem to follow that the title must remain in the grantee, unless the Court has power to declare and enforce the right to a forfeiture which passed to the United States from the former Government. That the Supreme Court did proceed to inquire whether or not there had been a forfeiture, is evident. On the supposition, therefore, that the *legal* title vested in the grantee by the original grant, the case of Fremont would seem to be an authority for the position, that in the Califor-

nia grants the Court has a right to inquire into and enforce a forfeiture which accrued under the Mexican Government of lands legally granted.

But the interest which vested in the grantee may have been deemed by the Supreme Court merely an equitable interest, not constituting the legal title but entitling the grantee to a legal title from this Government, or giving him a right of property in the land, which we are bound to respect.

This equity the Supreme Court apparently regard as perfect, unless the omissions of the grantee to perform had been such as by the Mexican laws and usages would have induced the Government to have regranted the land as vacant or forfeited. Under this view the inquiry to be made in these cases would seem to be identical with that made on a denouncement under the Mexican system. The same and no other grounds of forfeiture should be investigated and the same excuses received. The benignant generosity of such a principle, so worthy of a great nation dealing with the rights of a conquered people, all must appreciate.

If it was not adopted by this Court, it was because it was considered that the only equity which could be judicially regarded in these cases arose, not from the grant of the Governor alone, but from the grant and the subsequent performance of the conditions as required in the grant or *cypres*, and that in the case of imperfect or incomplete titles, such as unconfirmed grants were deemed to be, it was considered that under the altered condition of the country, the enormously increased value of lands, and the radical change in the policy of the Government with regard to its public domain, the grantee who had neither obtained a complete title or performed the conditions had no right to demand that the indulgence should be shown by us which the former Government, during its existence, had no motive to refuse, but which if it had continued it would not probably, under the present circumstances, have extended to this class of claimants.

Perfect or confirmed grants were supposed to stand on a different footing; with regard to them it was considered by this Court that a forfeiture could only be declared, if at all, under the same circumstances as by Mexican laws and usages would have author-

ized a regrant of the land on a denouncement. But whatever view may be taken of these questions, the duty of this Court is clear. Following then, as I am bound to do, the course of inquiry upon the result of which the determination of these cases has been adjudged on this point to depend, the only question is "whether there has been any unreasonable delay or want of effort on the part of the grantee to fulfill the conditions, so as to justify the presumption that the grantee had abandoned his claim before the Mexican power ceased to exist, and is now endeavoring to resume it from its enhanced value."

This question is widely different from that upon the determination of which the validity of grants unconfirmed by the Departmental Assembly had been by this Court supposed to depend.

It had been considered by this Court that until the grant received the approbation of the Assembly, the concession by the Governor passed only an imperfect or inchoate title. That the grantee who had under the former Government fulfilled the conditions, and by occupying and cultivating the land rendered the only consideration contemplated by its policy and laws, had an equitable right to have his title perfected, and that that equity was binding upon the conscience of this as well as the former Government. But it was the opinion of this Court that where the grantee had omitted to fulfill these conditions, or was prevented by obstacles which existed and were known to him when he undertook the implied and sometimes express obligation to occupy and cultivate the land, he had no claim upon this Government to recognize the imperfect title he had obtained from the Governor.

It was not of course supposed by this Court that these concessions by the Governor were identical with the permissions to occupy or to have a survey made, which were given in Louisiana and Florida. But it was considered that the regulations of 1828 expressly required the approval of the Assembly to give definitive validity to the grant, and that until that was obtained the title of the person to whom the Governor had determined to concede remained imperfect or inchoate, and that his equitable claim upon this Government to respect or complete it must be founded on the fact of his having fulfilled the conditions or rendered the equivalent required by the Mexican law.

Under this view it was thought that the Louisiana and Florida cases bore a close analogy to those in this State, and that the decisions of the Supreme Court with regard to the former furnished a guide and imposed a rule as to the latter.

Some confirmation of these views might seem to be afforded by the record in this case, for the witness called by the claimants to prove the usages of the former Government states that when his lands were denounced for the nonperformance of the conditions, he assigned as an excuse that possession had not been taken because the grant required the approval of the Assembly, that this excuse was received by the Government, and that six months longer was allowed for the fulfillment of the conditions.

But these views, formerly taken by this Court, have been by the judgment of our highest tribunal decided to be erroneous, and it now becomes our duty to ascertain and obey the rules of decision which that venerated authority has laid down.

In the case of Fremont it is decided that by the grant of the Governor the grantee acquired a vested interest in the land, and that the question is "whether anything done or omitted to be done by the grantee, during the existence of the Mexican Government in California, forfeited the interest he had acquired and revested it in the Government."

No denouncement or regrant of the land having been made under the former Government, the Court declares "that there is nothing in the language of the conditions, taking them altogether, nor in their evident object and policy, which would justify the Court in declaring the land forfeited to the Government where no other person sought to appropriate it, and their performance had not been unreasonably delayed."

In the case at bar there seems to have been neither any formal inquest to ascertain and declare the forfeiture, nor any regrant of the land to a subsequent applicant, and the reasons which it is said by the Supreme Court, in the case so often cited, would justify them in declaring the land to be forfeited, do not seem to exist. The delay seems to have arisen from the same causes, and to be excusable on the same grounds as those urged in Fremont's case; nor do I dis-

cover any evidence justifying the presumption of a final abandonment of his grant by the grantee.

We, therefore, think that this claim ought not to be rejected for the nonperformance of the conditions.

This title was also held to be invalid by the Board by reason of the insufficiency of the description of the granted land. On this subject it is enough to say that this objection is already disposed of by the case of Fremont.

The grant in that case "was held to convey a vested interest in the quantity of land mentioned in the grant, to be afterwards laid off by official authority in the territory described."

The exterior limits in that case embraced one hundred square leagues—the grant was for ten square leagues. In this case the exterior limits embrace about fifty square leagues, while the quantity granted is limited to eleven.

The cases seem to be identical, and the objection under that decision cannot be maintained.

The above are the only grounds assigned by the Board for rejecting this claim.

The case has been submitted without argument on the part of the United States, or the suggestion of any other objections to its validity. In its examination and decision I have felt an anxious desire correctly to understand and apply the principles laid down for our guidance by the Supreme Court, and if I have in any respect misconstrued or misapplied their decision, the error has been involuntary.

THE UNITED STATES, APPELLANTS, *vs.* JACOB P. LEESE,
CLAIMING THE RANCHO HUICHICA.

THIS claim undoubtedly valid.

Claim for five leagues of land in Sonoma county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

United States v. Castro.

STANLY & KING, for Appellee.

The claimant in this case obtained on the twenty-first of October, 1841, a grant from Manuel Jimeno, acting Governor of California, for two square leagues of land, as designated on the map which accompanied his petition. Juridical possession was given of the tract as delineated on the map, but the extent of land measured to him largely exceeded the quantity mentioned in the grant. He thereupon petitioned for an augmentation, and on the sixth of July, 1844, he obtained from Governor Micheltorena an additional grant for three and one-half leagues, making in all five leagues and a half. The proofs show that as early as 1839 the land was occupied, and a house built upon it. The grantee also placed there cattle and horses, and cultivated about two hundred acres of the land. He has ever since continued to occupy it.

The authenticity of the grant is shown by proof of the genuineness of the signatures, and the production of the expediente from the archives of the former government. The claim was confirmed by the Board, and no objections to it are suggested in this Court.

A decree of confirmation must therefore be entered.

THE UNITED STATES, APPELLANTS, *vs.* RUFINA CASTRO
et al., CLAIMING THE RANCHO SOLIS.

THE nonproduction of the grant in this case does not affect the validity of the claim, the loss of the grant being proved, and long and notorious occupation of the land established.

Claim for two leagues of land in Santa Clara county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

STANLY & KING, for Appellees.

The only doubt that can be raised with regard to the validity of this claim arises from the fact that the original grant is not pre-

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United States v. Weber.

duced. The Board, however, after considering the evidence taken to show that the grant had been delivered to the deceased grantee, as well as its subsequent loss, arrive at the conclusion that it duly issued as represented in the petition. The fact that the list of grants in the archives contains this amongst others, the parol testimony of several witnesses who have seen it and known that it was produced and referred to, to settle disputed boundary lines, and the still more conclusive fact that the grantee and his family have resided upon the land for more than twenty years, are sufficient to remove any suspicions which the nonproduction of the grant might otherwise suggest. An occupation so long continued and so notorious, with a claim of ownership so universally recognized, might of itself be deemed sufficient evidence of ownership.

The claim was unanimously confirmed by the Board, and we see no reason for reversing their judgment; nor has any been suggested on the part of the United States.

A decree of confirmation must therefore be entered.

THE UNITED STATES, APPELLANTS, *vs.* CHARLES M. WEBER, CLAIMING THE RANCHO CAMPO DE LOS FRANCESES.

THE validity of this claim established by the ruling of the Supreme Court in Fremont's case.

Claim for eleven leagues of land in San Joaquin county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

VOLNEY E. HOWARD, for Appellee.

The claim in this case was confirmed by the Board of Commissioners. An appeal to this Court has been taken on the part of the United States; but no objections to the claim have been stated, nor has any error in the decision of the Board in matters of law or fact been suggested for our consideration. No additional testimony

has been taken in this Court, and the case has been submitted without argument, except a printed copy of the brief filed by the counsel for the claimants when the cause was pending before the Commissioners.

I have, however, as has been my practice, examined the voluminous transcript in the case, but have not discovered any reason for reversing the decision of the Board.

On the fourteenth of July, 1843, Guillermo Gulnac petitioned Governor Micheltorena for a tract of land eleven leagues in extent, for the benefit of himself and eleven other families, who were to assist him in forming a settlement upon the land.

The Secretary, Jimeno, to whom the Governor made the usual reference for information, reported on the twenty-eighth of November, 1843, that although Gulnac's petition was entitled to favorable consideration, yet it should be ascertained whether the petitioners desired the land for the formation of a colony; and that in that case the names of the persons who were to form it should be mentioned, in order that it might be expressed in the title that the grant was for their common benefit; but if the land was solicited for the personal benefit of the petitioner, that its extent was large, and others, following his example, might obtain similar grants, so that no public land would be left.

In conformity with this report, the Governor ordered that the petitioner should say whether the grant was asked for a colony, and that in that case the names of the families should be stated in the title; but if he desired it for himself individually, that he should ask for it within reasonable limits.

This order was made on the first of January, 1844; but on the thirteenth the Governor seems to have made his concession to the petitioner individually, and to the whole extent of land asked for. The concession, it is true, recites that the grant is for the benefit of Gulnac and his family and that of eleven other families; but their names are not mentioned, as previously suggested by the Secretary, and it may be presumed that the Governor finally determined to grant the land to Gulnac alone, leaving him to make such arrangements with the families who were to settle upon the land as he might see fit.

United States v. Weber.

The foregoing facts appear from the expediente on file in the archives, a copy of which is contained in the transcript.

The original title delivered to the party is also produced by the claimant, and the genuineness of the signatures fully proved.

It also appears from the certificate attached to the original grant that the grant was approved by the Departmental Assembly on the fifteenth of June, 1846.

By virtue of this approval the title of the petitioner became "definitively valid," and the legal estate in fee vested in the grantee. Whether in such a case this Court has any right to inquire into a breach of the conditions subsequent annexed to the grant, for the purpose of enforcing any forfeiture for conditions broken which may have accrued, it is unnecessary to consider; for the evidence in this case abundantly shows that the grantee and the present claimant, who derive title from him, made every possible exertion to fulfill the conditions of the grant, and that though embarrassed by unforeseen obstacles, they effected an extensive settlement upon the land before the country was ceded to the United States by the treaty. The excuses for nonperformance of conditions within the time limited are at least as valid as those which were in the case of *Fremont v. The United States* held sufficient under a grant not approved by the Assembly, and in this case it appears in addition that the conditions were fully performed, and in fact a future city founded before the formal acquisition of the country. No objections having been made on the part of the United States, I do not deem it necessary to refer particularly to the evidence by which the existence of unforeseen obstacles to an immediate settlement is established, nor to that which proves the extensive improvement, occupation and cultivation which ensued, and which exist to the present day.

The boundaries of the grant are indicated with apparent precision in the grant and map which accompanies it, and its extent is limited to eleven leagues.

A decree of confirmation for land to that extent, within the boundaries set forth in the grant and accompanying *diseño*, must therefore be entered.

THE UNITED STATES, APPELLANTS, *vs.* SAMUEL G. REID
et al., CLAIMING THE RANCHO DEL PUERTO.

THE validity of this claim not controverted.

Claim for three leagues of land in San Joaquin county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

A. C. WHITCOMB, for Appellees.

The claim in this case was affirmed by the late Board of Commissioners. No additional testimony has been taken in this Court, and the case has been submitted without argument or objection on the part of the United States.

The grant under which the claim is made was issued by Governor Micheltorena on the twentieth of January, 1844. The signatures to the original document, produced by the interested parties, are fully proved, and the expediente is found in the archives and duly certified by the Surveyor General. That the grant was made does not seem to admit of any question, and though from an error in drawing the *diseño* the positions of the San Joaquin river on one side and the serranias on the other are incorrectly delineated, and should be reversed, yet the calls in the grant, the natural objects mentioned in the *diseño*, the specification of the *lindero* or boundary of Higuera's rancho as one of the boundaries of the tract now claimed, together with the deposition of Hernandez contained in the transcript, are abundantly sufficient to explain and correct the error.

With regard to the occupation and settlement of the land, it is shown that the conditions were in that respect complied with within the time limited. The fact that owing to the depredations of the Indians the grantees were driven from their property after the murder of Linsay, cannot of course prejudice their claim.

The mesne conveyances are proved and appear to be regular, and there seems to be no reason for reversing the decree of the Board.

A decree of confirmation must therefore be entered.

THE HEIRS OF ANASTASIO CHABOLLA, CLAIMING THE
RANCHO SAUJON DE LOS MOQUELEMES, APPELLANTS, *vs.* THE
UNITED STATES.

THIS claim must be confirmed under the ruling of the Supreme Court in Fremont's case.

Claim for eight leagues of land in San Joaquin county, rejected by the Board, and appealed by claimants.

A. P. CRITTENDEN, for Appellants.

S. W. INGE, United States Attorney, for Appellees.

The grantee in this case, on the seventeenth of May, 1843, addressed a petition to the Governor, representing that he had, some sixteen months previously, applied for a grant of land designated on a map, which he inclosed. This application, he stated, had been referred to General Sutter and the Juzgado of the Pueblo, but had been wholly neglected by them; and that in the meantime grants had been made to Gulnac and other foreigners, less entitled than himself to favorable consideration. He therefore prayed the Governor to make him the concession as originally solicited. The Governor made the usual marginal decree or order of reference for information, and the Juzgado of the Pueblo of San José and the Secretary, Jimeno, reported favorably to Chabolla's application.

On the twenty-fourth of January, 1844, the Governor made his decree of concession, granting to Chabolla "eight sitios of *gañado* mayor on the borders of the river Cosumnes southward, and on that of the San Joaquin," the possession to be measured two leagues on the bank of the River San Joaquin and the rest in the plain running to the east.

The document or title delivered to the grantee corresponds with the decree of concession, and the fourth condition states that the land is eight leagues in extent, to be measured as above mentioned, and according to the *diseño*.

The foregoing facts appear in the expediente on file in the archives, and in the title produced by the party, the signatures to which are duly proved.

No approval by the Departmental Assembly appears to have been obtained, nor was juridical possession of the land given to the grantee. The usual condition of cultivation and habitation was annexed to the grant, and the question arises in this as in the case of Fremont, "whether there has been such unreasonable delay or want of effort on the part of the grantee to fulfill the conditions as will justify the presumption that he had abandoned his claim, and is now seeking to resume it from the enhanced value of the land." (17 How. 561.)

The grant was issued in January, 1844. By the deposition of Antonio M. Pico it appears that in 1846 or 1847, there were upon the rancho three hundred head of cattle and forty or fifty horses belonging to Chabolla; there was also at that time a house on the place, in which an overseer lived, with Indian servants, and corrals had been built and land put under cultivation. The witness states that he believes the cattle had been taken to the rancho from San José in 1844.

Henry J. Bee, a witness whose testimony was taken in this Court, states that he saw Chabolla on his place in 1846; that he was then building a house; and that in 1845 he saw him driving cattle up there. The witness visited the rancho in 1848. A house had then been built. Sulinas, the steward of Chabolla was living there, and there were cattle and horses upon the rancho bearing Chabolla's brand. The witness adds that in 1845 he did not go to the place where in 1846 he saw the house.

George F. Wyman, whose testimony has also been taken since the case was appealed, states that in 1844 he saw a man named Sulinas building a house on the rancho for Chabolla, as he said. The house was situated on the south side of the Cosumnes river. The witness also states that he was again on the rancho in 1845, and from time to time for three or four years, and that in 1848 he lived several months in Chabolla's house. In 1845 he saw cattle and horses there marked with Chabolla's brand; and in 1846-7 there were some twenty acres of land inclosed by a ditch, dug by Sulinas, who cultivated wheat, barley, etc., within the inclosure.

No opposing testimony has been taken on the part of the United States.

Under the facts as disclosed by these witnesses, it is evident that the claimant has not only not been guilty of such a breach of the conditions as would justify the presumption that he had abandoned his claim, but on the contrary he seems to have proceeded to settle upon and cultivate his land with a diligence by no means usual with the grantees under the Mexican Government. I think, therefore, that under the rules laid down by the Supreme Court in the case of Fremont, the objection that the conditions were not fulfilled cannot be maintained.

This claim was rejected by the Board for the nonfulfillment of the conditions; but one of the Commissioners appears to have concurred in the decision on the ground that no proof was offered to show that the present claimants are the heirs and representatives of Chabolla, who is deceased. That objection, whatever force it may have had, is obviated by the testimony of Antonio Chabolla, a brother of the grantee, taken in this Court.

The cause has been submitted without argument on the part of the United States, or the statement of any objection to the claim, except a reference to the opinion of the Board as containing the grounds on which the United States rely for the rejection of the claim. It is not mentioned in the opinion of the Board, or suggested on the part of the United States, that there is any difficulty as to locating the land. The grant mentions that the land is situated on the borders of the Cosumnes southward, and on those of the San Joaquin, measuring two leagues on the latter river, and the remainder of the tract on the plain to the east.

The description of the land in the grant delivered to the party, in one respect differs from that contained in the decree of concession. In the former, the land is described as lying in the plain to the west of the San Joaquin. But this is evidently a clerical error, for the map of the country shows that the plain out of which the land could alone be taken lies to the east of the San Joaquin, the land to the west being a broad belt of marshy land covered with tule, and if located to the west, the grant would not touch the Cosumnes, on the borders of which to the south it is described as situated.

A decree of confirmation of the claim, to the extent of eight leagues, to be located and measured as set forth in the expediente, must therefore be entered.

THE UNITED STATES, APPELLANTS, *vs.* THE HEIRS OF
JOSE MARIA SANCHEZ, CLAIMING THE RANCHO LAS ANI-
MAS.

THE objection that the boundary of an adjoining rancho is affected by this claim is not tenable, the controversy being between and concluding the United States and the claimants only.

Claim for four leagues of land in Santa Clara county, confirmed by the Board, and appealed by the United States.

S. W. INGE, United States Attorney, for Appellants.

THORNTON & WILLIAMS, for Appellees.

The claim in this case is founded on a title issued by Governor Figueroa to the widow of Mariano Castro. It appears from the voluminous documents contained in the expediente, that Josefa Romero, the widow of Castro, petitioned the Governor for a revalidation of the title of her husband, or in case the papers on file did not authorize such a proceeding, then for a new grant to herself. The Governor directed a search to be made in the archives for the record of the proceedings relative to the first grant. That record is embodied in a report of the Secretary Negrete, and presented to the Governor for his examination. It is unnecessary to recapitulate these documents, or to examine the various reports and records of proceedings before the Viceroy of New Spain on Mariano Castro's petition. The Governor seems to have been satisfied as to the right of Josefa Romero to have the land which Mariano Castro had occupied for many years confirmed to her. He accordingly issued his decree recognizing the right of the party as ascertained from the archives, and ordered the proper testimonial of her title to the property to be issued to her. In this decree the Governor mentions that the rancho of Las Animas has been possessed by Castro and his family for more than twenty years "in public notoriety," and as their right is proved to this tract granted to Castro under the name of La Brea by the Vice Royal Government in 1802, he ordered a testimonial to issue for their protection, and inasmuch as

the boundaries are not expressly defined in the grant of the Viceroy, the parties must confine themselves to those set forth in the petition filed on the part of Rufina Romero, leaving uninjured the rights of any third party who may consider himself aggrieved by the proceedings.

The authenticity of all the documents in the case is proved, and the long continued habitation and cultivation of the rancho for nearly half a century by those under whom the appellees claim, leave no doubt as to the validity of the title. It was accordingly unanimously confirmed by the Board.

Much testimony has been taken on the part of the claimants of the adjoining rancho of San Ysidro to prove the precise location of the boundaries between that rancho and the rancho of Las Animas. But it has already been determined by this Court and the Board of Commissioners that the rights of third parties cannot be adjudicated in this form, and that the question to be determined in this class of cases is merely the validity of the claim as against the United States. Between the United States and the claimants final decrees in these suits are conclusive, but the Act of 1851 expressly declares that such decrees shall not affect the interests of third persons. All questions between claimants arising out of a conflict of boundaries are by the thirteenth section of that act more appropriately referred, in the first instance, to the Surveyor General, but leaving to the parties the right of resorting to the proper judicial tribunals.

As the "testimonial" or decree made by the Governor mentions the boundaries of the tract of "Las Animas" to be those indicated in the *diseño* which accompanies the petition, leaving uninjured the right of any third party who may consider himself aggrieved by the proceeding, the rights of such parties would seem to have been intended to be left in the same condition as under patent issued by the United States under the law of 1851.

It is clear from the terms of the testimonial that the Governor intended to confirm and recognize the rights of the petitioners to the land of which they had long been in possession; and that so far as the Government was concerned, he was willing to adopt the boundaries indicated by the petitioners on the *diseño*. But those

United States v. Ortega.

boundaries were not intended to be conclusive upon the rights of others, and the reservation made in the decree clearly shows that if, in delineating the boundaries of the tract of which they claimed to be owners, the petitioners had exceeded its true limits or included the lands of others, the rights of such parties were not intended to be prejudiced by the decree of concession.

I think, therefore, that a decree should be entered in this Court in conformity with the decree of the Governor, and that the title of the claimants should be confirmed to the land according to the boundaries indicated on the *diseño*, but without prejudice to the rights of any parties who may be injured by such location.

THE UNITED STATES, APPELLANTS, *vs.* QUINTIN ORTEGA *et al.*, CLAIMING PART OF THE RANCHO SAN YSIDRO.

THIS claim is valid for the portion petitioned for by Maria Clara Ortega and Julius Martin.

Claim for one league of land in Santa Clara county, confirmed by the Board, and appealed by the United States.

WILLIAM BLANDING, United States Attorney, for Appellants.

STANLY & KING, for Appellees.

It appears from the expediente on file in the archives that Quintin Ortega, in the year 1833, petitioned Governor Figueroa for a title to a tract of land granted to his father, Ignacio Ortega, by Don Joaquin Arrillaga, in 1809. The Governor made the usual reference for information, and by the reports made to him it appeared that for more than twenty years, and in fact from 1809 until his decease in 1829 or 1830, the land had belonged to and been in possession of Ignacio Ortega, and that since that time his son and two daughters had continued to occupy it.

On the third of June, 1833, the Governor made his concession, granting to Quintin Ortega and his sisters, Maria Clara Ortega and

Maria Isabel Ortega, the rancho called San Ysidro, bounded by the Mission of San Juan Bautista, by the ranchos of Animas and Las Llagas, and by the mountains—"the land being conceded in equal parts and subject to the stipulated conditions."

These conditions, it is evident from the subsequent proceedings, related to the division of the land among the grantees, for the Governor appears to have issued three documentos or titles, each granting a third part of the land included within the boundaries embraced in his decree of concession.

By the documento issued to Maria Clara Ortega, wife of John Gilroy, there was granted to her a part of the rancho of San Ysidro, bounded by the Rancho de Las Animas and the mountain, and the parts which appertain to her brother Quintin and her sister Maria Isabel. The quantity of land granted is limited to one square league, and the sobrante is reserved in the usual terms.

This grant, as well as those to Quintin and Maria Isabel for their portions of the rancho, was approved by the Departmental Assembly on the seventeenth of May, 1834. There seems to be no doubt of the genuineness of the grants in these cases, or of the occupation and cultivation of the land by the grantees and their father since 1809.

It appears from the opinion of the Board of Commissioners that the claim of Quintin Ortega to the portion of San Ysidro granted to him, was confirmed in a separate suit instituted on his behalf, and as the petition filed does not embrace the claim of Maria Isabel, there only remains to be passed upon in this case the claim of Maria Clara and that of Julius Martin, who derives his title by deed from her and her husband, dated January 8th, 1852.

With respect to the boundary line of "Las Animas," which is also the boundary of that portion of San Ysidro granted to Maria Clara, some disputes have arisen. But for the reasons assigned in the opinion in that case, such disputes cannot in this proceeding be settled.

It is clear that both claims are valid as against the United States. The precise location of the boundary line between the coterminous ranchos must be settled either by the Surveyor General or by the proper tribunals of the country.

United States *v.* Grimes.

The claimant, Maria Clara Ortega, is, therefore, entitled to a decree of confirmation for the portion of San Ysidro granted to her to the extent of one league, and bounded as described in the grant, excepting therefrom the part conveyed by her and her husband to Julius Martin, for which a decree must be entered in favor of said Martin.

THE UNITED STATES, APPELLANTS, *vs.* HIRAM GRIMES,
CLAIMING THE RANCHO SAN JUAN.

No objections to the confirmation of this claim.

Claim for four and a half leagues of land in Sacramento county, confirmed by the Board, and appealed by the United States.

WILLIAM BLANDING, United States Attorney, for Appellants.

A. C. WHITCOMB, for Appellee.

The claimant in this case derives his title by deed from Joel P. Dedmond, the original grantee. The grant issued to Dedmond by Governor Micheltorena on the twenty-fourth of December, 1844, is duly proved, and the expediente containing the petition, *diseño* and other usual documents, is found in the archives.

With regard to the performance of the conditions there is some discrepancy in the testimony. But the witness O'Brien is shown not to have been in the country at the time he swears that no house existed, and his character would seem to be such as to entitle his testimony, even if uncontradicted, to but little weight.

But the testimony of Buzzell, Wyman and Leahey, witnesses to whom Hicks, who was sworn on behalf of the United States, expressly refers as best acquainted with the facts, shows beyond all reasonable doubt that a house was built and a portion of the land cultivated as required by the conditions; and the rancho seems to have been in the possession of Dedmond and his grantees Sinclair and Grimes, up to the present time.

The location of the land is said by the Commissioners to have been established with sufficient, though not with great, precision. In the grant it is described as bounded on the west by the place belonging to Señor Grimes, on the south by the American river, on the east by the foot of the Sierra Nevada, and on the north by vacant lands, being in extent from east to west three leagues, and from north to south one league and a half.

The claimant has put in evidence the expediente in the case of E. Grimes, whose land "El Paso" is one of the boundaries of the rancho now claimed. It appears by this expediente that the location and boundaries of El Paso are defined with unusual precision, a point of beginning being distinctly stated, and the courses and distances of all the lines given.

There would seem, therefore, with the boundary line which separates El Paso from the Rancho of San Juan now claimed, accurately established, with the American river and the foot of the Sierra as the limits on the south and east, and the extent of the land from north to south and from east to west expressly stated, to be no difficulty in locating this with all the accuracy necessary.

This claim was confirmed by the Board. No new testimony has been taken in this Court, nor has any argument been offered or suggestion made to the Court of any reason for reversing the decision of the Commissioners.

I think that a decree confirming the claim should be entered.

THE UNITED STATES, APPELLANTS, vs. HENRY R. PAYSON, CLAIMING THE RANCHO CAÑADA DE GUADALUPE.

THE validity of this claim undoubted.

Claim for two leagues of land in San Francisco county, confirmed by the Board, and appealed by the United States.

WILLIAM BLANDING, United States Attorney, for Appellants.

E. O. CROSBY, for Appellee.

United States *v.* Bernal.

The claim in this case was confirmed by the Board, and it has been submitted on appeal without additional evidence, or the statement on the part of the appellants of any objection to the validity of the claim. I have however, as has been my practice, examined the transcript on file, but have discovered no ground for reversing the decision of the Board.

The authenticity of the original grant seems undoubted, and the expediente is produced from the archives confirmed by a record or note of the grant in the book in which such entries were made. The land was occupied by the original grantee within the time limited, and appears ever since to have been held by him and his grantees as its notorious and recognized owners.

The mesne conveyances appear to be regular and to vest the title to the land claimed by him in the present claimant.

A decree confirming the decision of the Board must therefore be entered.

THE UNITED STATES, APPELLANTS, *vs.* AGUSTIN BERNAL, CLAIMING THE RANCHO SANTA TERESA.

THE validity of this claim not disputed.

Claim for one league of land in Santa Clara county, confirmed by the Board, and appealed by the United States.

WILLIAM BLANDING, United States Attorney, for Appellants.

B. W. LEIGH, for Appellee.

The claim in this case was confirmed by the Board, and it has been submitted to this Court on appeal without argument on the part of the United States.

The claim seems to be one of the most meritorious which have been presented for our consideration.

The petition of Joaquin Bernal bears date on the tenth of May, 1834, and states that the petitioner was an invalid soldier ninety-

four years old, and with a posterity of seventy-eight souls. That he had entered into possession of the place solicited five years before, by permission of the Ayuntamiento of the Pueblo of San José, and that he and his family had built four adobe houses, and had continued to occupy the land with his property consisting of twenty-one hundred head of cattle, one hundred and twenty sheep, three mares and fifty tame horses, etc.

The Governor, after the usual references, acceded to the petition, and the concession was confirmed by the Departmental Assembly, with a slight modification of the boundaries of the tract—the Assembly having decided on the application of Juan Alvarez to except out of the land the portion claimed by the latter. In accordance with this resolution, the title was issued to Bernal on the eleventh of July, 1834.

In the month of July, 1835, Bernal applied to the Constitutional Alcalde of San José for judicial possession of the tract granted, which was accordingly given by that officer.

The genuineness of the original title is clearly proved, as well as that of the “testimonio” or certificate delivered to the grantee by the officer giving judicial possession. To this latter instrument were prefixed the original grant and a copy of the map contained in the expediente. The latter document is also duly produced from the archives, and the genuineness of the claim is established beyond all doubt by the production of all the evidence of every kind which can be adduced in support of a grant by the former Government of this country. From the year 1826 until the present time, the land has been occupied under an unquestioned title by the grantee and his numerous descendants. The only doubt suggested in this case arises from an alleged error in the boundaries, as fixed by the officers giving judicial possession. But on closely examining the proofs, there does not seem any reason to suppose such an error to have been committed. The survey on which reliance was placed as establishing that the tract of which possession was given exceeded in extent the quantity granted, appears to have been exceedingly inaccurate, for independently of the mistake of calculation apparent on the scale appended to the surveyor’s map, it is also shown that the tract surveyed, and the extent of

United States v. Pope.

which he attempts to establish, included a considerable quantity of land not comprised within the boundaries established by the officer who gave judicial possession. On the whole case there seems no reason to suppose that the tract of which possession was given, and of which the grantee and his heirs have enjoyed the undisputed and notorious possession for more than thirty years, differs either in quantity or as to boundaries, from that described in the grant and the map to which it refers.

The opinion of the Commissioners is so full and conclusive on this point, that it is not deemed necessary to discuss it further, particularly as the objection has not been urged in this Court, or any attempt to impair the force of the reasoning, or correctness of the conclusion of the Board.

We think, therefore, that a decree of confirmation should be entered for the land, as described in the grant, and according to the boundaries fixed in the act of judicial possession.

THE UNITED STATES, APPELLANTS, *vs.* JOSEPH POPE *et al.*, HEIRS OF JULIAN POPE, DECEASED, CLAIMING THE RANCHO LOCOALLOMIA.

THE validity of this claim fully established.

Claim for two leagues of land in Napa county, confirmed by the Board, and appealed by the United States.

WILLIAM BLANDING, United States Attorney, for Appellants.

McDOUGAL, ALDRICH & SHARP, for Appellees.

In September, 1841, Julian Pope applied to General Vallejo for an order for the provisional occupation of the premises now claimed.

The land having been reported to be vacant, permission to occupy and to apply for the usual title was given to the applicant.

Julian Pope accordingly petitioned the Government for a grant,

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and on the thirtieth of September, the usual title was issued by Jimeno, giving to Pope the place called Locoallomia, of two sitios de ganado mayor.

The above facts are established by the grant, which is produced and duly proven, and by the expediente, which is found in the archives, and a copy of which duly certified is on file.

ANTONIO MARIA PICO *et al.*, CLAIMING THE RANCHO EL
PESCADERO, APPELLANTS, *vs.* THE UNITED STATES.

ENTITLED to confirmation under the ruling of the Supreme Court in Fremont's case.

Claim for eight leagues of land in San Joaquin county, rejected by the Board, and appealed by claimants.

LOCKWOOD, TYLER & WALLACE, for Appellants.

WILLIAM BLANDING, United States Attorney, for Appellees.

The claim in this case is founded on a grant issued by Governor Micheltorena, bearing date the twenty-eighth day of November, 1843.

The expediente is produced from the archives, and the original grant delivered to the party interested—the authenticity of which is duly proved.

The claim was, however, rejected by the Board, on the ground that the conditions of the grant had not been performed, and that no legal excuse for nonperformance had been offered.

This decision was rendered before the case of Fremont was determined by the Supreme Court. In the statement of the case filed by the counsel for the appellants no argument is offered on the points involved in the case, the expectation being confidently entertained that the rules laid down in the *United States v. Fremont* would govern the case. On the part of the United States no argument is submitted, the Court being merely referred to the objections urged in similar cases.

It is to be regretted that the point involved in this case was not debated by counsel, and that the Court is obliged to arrive at a conclusion unassisted by arguments at the bar.

It is not pretended that the grantee ever complied, during the existence of the former Government, with the conditions of the grant.

By the testimony of A. Suñol it appears that "soon after Pico received his grant he prepared to remove his cattle on his rancho, but the Indians became hostile about this time and murdered Gulnac's mayor domo on the other side of the river, and prevented Pico from settling on his land. From this time until 1848 and 1849 the Indians continued hostile, and robbed the ranchos down to the valley of San José. In 1847, troops were sent against them, but they continued their depredations until after the discovery of gold in 1848."

The conditions attached to grants in California were clearly conditions subsequent, and by the decision of the Supreme Court in the case of *Fremont v. United States* it is established that the grant of the Governor, although unconfirmed by the Departmental Assembly, "vested in the grantee a present and immediate interest." It is true that the grant in that case alluded to the meritorious services of the grantee; but independently of the fact that the Governors do not seem to have been authorized by the Colonization Laws to recompense such services by grants of land, and could at most only consider them as entitling the applicant to a preference over other petitioners, it is clear that the grants being in the same terms must receive the same construction, whatever consideration may have moved the Governor to make them. The law under which he acted was intended to secure the settlement of the country by providing for the distribution of the public land among colonists and settlers. To such alone the Governor was authorized to grant, and we accordingly find that in almost all cases conditions were annexed to the grant requiring the occupation and cultivation of the ceded land. Under our system the same result is attained by withholding the patent or final title until after the person who has entered the land has effected a permanent settlement upon it. Under the Mexican law, however, a full title issued in the first instance

but conditions were attached to it providing for a forfeiture in case the grantee, by omitting to occupy and settle upon his land, defeated the policy of the Government, and failed to furnish what was the sole consideration of the grant.

The grants, then, passed a present and immediate interest to the grantee, subject, however, to conditions subsequent; and such was their effect not only when the Departmental Assembly had confirmed, but even, as decided in the case of Fremont, without such confirmation.

From this general statement it is, we think, apparent that the principles established in that case apply to all colonization grants made under the regulations of 1828, and cannot be restricted to those alone in which the meritorious services of the grantee may happen to be alluded to in the grant.

This grant, then, like that to Alvarado in the case referred to, having vested in the grantee a present and immediate interest, the inquiry, as in that case, is "whether there has been any unreasonable delay or want of effort on the part of the grantee to fulfill its conditions, and whether there is room for the presumption that the party had abandoned his claim before the Mexican power ceased to exist and is now endeavoring to resume it from its enhanced value."

The facts in the case of Fremont, in which it was held that no unreasonable delay had occurred, and that no such presumption arose, were established in a manner much more satisfactory than those relied on in this case. It may not be "very clear," as in that case, that during the continuance of the Mexican power it was impossible to have made a survey or built a house on the land, but the fact exists in this case, as in that, that no one else proposed to settle on it or denounced it for nonfulfillment of the conditions.

The testimony of Suñol, though less full and satisfactory than could be wished, nevertheless shows that the obstacles to the settlement were nearly identical with those which prevented Alvarado from complying with the conditions of his grant.

The grant to Pico is dated November, 1843, while that to Alvarado was issued in February, 1844—only three months afterwards. The general condition of the country, and the political

disturbances which prevented a settlement in the one case must have interposed obstacles equally insurmountable in the other.

But the inquiry is not whether the grantee could, by possibility, have effected a settlement on his land, but whether his delay has been *unreasonable*, and so *unreasonable* as to furnish a presumption that he abandoned his claim, and that he is now fraudulently attempting to resume it.

Under the evidence we feel constrained to say, that his delay is not only susceptible of an explanation consistent with the absence of any intention on his part to abandon his claim, but that it seems to have been caused by circumstances over which he had no control, and which probably rendered it unavoidable.

It may be urged that in this case the Governor did not, as in the case of Alvarado, dispense with the *diseño* or plan which usually accompanied the petition; and that the presumption does not arise in this case, as in that, that the Governor, by "officially admitting that the land was situated in such a wilderness and bordered by such dangerous neighbors as that no plan could be prepared," impliedly recognized the impracticability of effecting a settlement within the time. There is some force, perhaps, in this suggestion. But it is to be remembered that the Governor expressly imposed upon Alvarado the condition of making his settlement within the year; and if his dispensing with the *diseño* might be considered as a recognition of the fact that the condition of the country might occasion delays, and that such delays would not be deemed unreasonable, the circumstance that he, notwithstanding, insisted in the second condition on the settlement within the usual time, in some degree at least impairs the force of the argument. The insertion of the condition is not, however, so conclusive on this point as it might appear; for the dispensing with the *diseño* was an unusual and exceptional indulgence of the Governor, in granting which he exercised a discretion after his attention had been attracted to the subject, while the insertion of the usual conditions in the grant was probably the work of some clerk, who drew up the paper in the usual form, and without reference to any peculiar circumstances attending it.

The insertion of the conditions could, moreover, under the Mex-

Martin v. United States.

ican law, have naturally been but little regarded by the grantee, for he knew that so long as he was unable to effect a settlement no one else would be, and, as observed by the Supreme Court, that the grant would not be forfeited unless some other person desired and was ready to occupy the land.

I do not perceive, therefore, that the fact that the Governor in the case of Fremont dispensed with the *diseño*, while in this case it was duly submitted with the petition, furnishes ground for a broad distinction between that case and this.

The important and the sole question is, as propounded by the Supreme Court in the case so often referred to, "whether any thing done or omitted to be done by the grantee during the existence of the Mexican Government in California, *forfeited* the interest he had acquired, and *revested* it in the Government."

Such forfeiture could only have been incurred by unreasonable delay or want of effort on his part to fulfill the conditions; and such as to raise the presumption that he had abandoned his claim.

It being shown in this case that the delay arose from obstacles which may be regarded as insuperable, that it was not only not unreasonable, but probably unavoidable, no presumption of abandonment can arise; and the title not having been "forfeited and revested in the Government, remained, at the time the sovereignty passed to the United States, vested in the grantee, and the United States are bound in good faith to uphold and protect it." (17 How. 557.)

A decree of confirmation must therefore be entered.

JULIUS MARTIN, CLAIMING PART OF THE RANCHO ENTRE
NAPA, APPELLANT, vs. THE UNITED STATES.

THIS claim entitled to confirmation as against the United States, but without prejudice to third parties.

Claim for one square mile of land in Napa county, rejected by the Board, and appealed by the claimant.

Martin v. United States.

STANLY & KING, for Appellant.

WILLIAM BLANDING, United States Attorney, for Appellees.

The claim of the appellant in this case is founded on a grant made in 1836 by Governor Manuel Chico to Nicolas Higuera. The authenticity of this grant is fully proved, nor does its validity appear to have been questioned either by the Board or the law agent of the United States. The original grant and the expediente from the archives are produced, and the record of the act of judicial delivery of possession is also exhibited, showing that Higuera was personally put into possession of his land, and the boundaries were definitely established by proper authority. It is also shown that the conditions of the grant were fully complied with by Higuera, who appears to have enjoyed the uninterrupted possession of the grant, except those portions which he may have sold, until his death.

There appears then to be no doubt of the validity of the original grant as against the United States, nor do I understand it to be disputed on their behalf. This fact having been ascertained, it would seem that the chief duty of this Court is performed, and that the claim should be confirmed. It is however opposed nominally on behalf of the United States, but really in behalf of parties claiming under Higuera and affirming the validity of the original grant, but denying the rights of the present claimant, Martin, to the portion of the land alleged to have been conveyed to him. The real controversy is, therefore, between the claimant and third persons, and this Court is asked in effect to decide between parties whose interests, by the very terms of the Act, its decree cannot affect.

If under cover of proceedings instituted to ascertain the rights of the United States to the lands claimed under grants of the former Government, all persons claiming adverse interests could come into the controversy and obtain an adjudication upon their conflicting titles, it needs no argument to show that this class of cases would soon assume so complicated and embarrassing a form as to indefinitely protract their final determination. In the mass of adverse

claims which might be presented for the same land, and in the innumerable questions which might arise of fraud, accident or priority, or of heirship, devise, partition, succession, purchase, etc., under the Spanish or American laws, the great object for which the proceedings were instituted and the jurisdiction conferred upon the Board and on this Court would in many cases be wholly lost sight of, and the time and labor of the Court would be devoted to trying a complicated series of cross ejectments in a suit not dissimilar to a proceeding *in rem*. But if this Court were to undertake to adjudicate upon the rights of adverse claimants as between themselves, the very nature of the proceeding would require it to permit all such claimants to intervene in every suit. The impracticability of allowing this right was demonstrated in the opinion delivered by Mr. Commissioner Thornton in case No. 2 before the Board, and for the reasons there assigned this Court has heretofore decided that after ascertaining the validity of the original grant as against the United States, it would not attempt to adjudicate upon the rights of various claimants under the original grantee, but would decree in favor of the party presenting the application, provided he showed a *prima facie* right to the confirmation of his claim. In this way alone could the inquiries before this Court be limited to the questions the Act intended it should decide, while all questions of mere private right would be settled before the ordinary judicial tribunals of the country to which all parties have access.

The only question then to be determined in this case is: Do the mesne conveyances to the claimant show such a *prima facie* right in him as entitles him to a decree in his favor, or are they so clearly void as to make it incumbent to reject his claim, although we are satisfied that the land in no event can be the property of the United States?

The claim was rejected by the Board on the ground that the description of the land in the mesne conveyances by Higuera to Fallon and wife, and by the latter to the claimant, was vague and uncertain, and that therefore nothing passed by the deeds.

The description is as follows: "A certain quantity of land lying, being and situated in the district and territory already named in the valley of Napa, containing more or less one mile square of land

in the place known as the Rincon de las Carneras, commencing on the wagon road and ending at the point of the hill on the east."

Much additional testimony has been taken in this Court. Had that testimony been before the Board, it is not certain that their decision might not have been different.

It is, I think, sufficiently established by the proofs, that the Rincon de las Carneras is a triangular piece of land embraced between Napa river on one side and the arroyo de las Carneras on the other. These two streams come together at an acute angle at the south, forming the apex and two sides of a triangle. The limits of the Rincon on the north seem not very definite, but the boundaries of the land in that direction are indicated in the conveyance with tolerable distinctness. A line drawn from the wagon road to the point of the hills on the east would nearly form the base of the triangle above described, and I think sufficiently shows the intended limits of the grant in that direction. If then the grant had been of the Rincon, commencing at the line above stated, I do not perceive that any doubt could exist as to the precise tract intended to be conveyed. But the words of the grant are "a quantity of land containing *more or less* one mile square *in the place* known as the Rincon de las Carneras, commencing," etc. Was this then a grant of one mile square out of the larger quantity contained in the Rincon, or did the grantor intend to convey the Rincon from the line mentioned, adding a rough estimate of its supposed extent? I incline to the latter view. If the parol testimony taken be deemed admissible, there cannot, I think, remain any doubt on the point, and the equitable right of the claimant as against his grantor and his heirs to have the land according to the limits originally intended, would seem indisputable.

The looseness and inaccuracy of the estimates of the area of land formed by the Mexican population of the country is notorious, and there is nothing improbable in the supposition that a piece of land containing in fact eighteen hundred acres should be described as containing a "square mile more or less." If the intention had been to restrict the grantee to the precise quantity of one mile on the line mentioned, the words "more or less" would hardly have been introduced. The fact that they are in the deed shows that

United States *v.* Pacheco.

the grant was not intended to be of any specific quantity of land, but of some tract present to the mind and before the eyes of the parties. That tract or piece of land must have been the Rincon, limited on the north by the line mentioned in the grant.

It is unnecessary, however, to discuss the question further, for no decision of the Court on this point can ultimately bind the parties who alone are the contestants. I think it clearly our duty to confirm the claim as against the United States to the whole Rincon, south of the line mentioned, without prejudice however to the rights of any third parties having or pretending to have any adverse title to the same land or to any part of it.

THE UNITED STATES, APPELLANTS, *vs.* ROSA PACHECO
et al., CLAIMING THE RANCHO ARROYO DE LAS NUECES Y BOL-
BONES.

THIS claim is valid for all the land within the boundaries shown by the diseño, and is not to be restricted to the quantity named in the grant.

Claim for two leagues of land, more or less, in Contra Costa county, confirmed by the Board for two leagues, and appealed by the United States and by claimants.

WILLIAM BLANDING, United States Attorney, for United States.

A. P. CRITTENDEN, for Claimants.

In this case appeals have been taken both by the United States and by the claimants. The Board confirmed the title to the land to the extent of two leagues; and the claimants assert that they are entitled to a confirmation of the tract granted by metes and bounds, and irrespective of quantity.

With regard to the validity of the grant no question seems to be raised. In the brief filed on the part of the United States it is observed, that "on the general question of the validity of the whole

grant, it is not designed to repeat objections and arguments which this Court has so often decided to be untenable."

The validity of the title being thus admitted, under the principles laid down in former adjudications of this Court, the only question is as to the extent to which it should be confirmed.

The petition was presented to Governor Figueroa on the fifteenth of May, 1834, and the usual order of reference for information was made. After receiving the report of the Ayuntamiento of San José Guadalupe, a further reference was made to the Alcalde of Monterey, directing him to examine witnesses, to be produced by the petitioner, as to her qualifications, as to whether the land was vacant, as to its extent and nature, and as to whether she had the means of stocking it with cattle.

The Alcalde accordingly took the depositions of the witnesses, by which it appeared that, as stated by two of them, the land was two and one-half leagues, "a little more or less," long, and about two leagues broad; and as deposed by the third, that it was two leagues long, more or less, and about two leagues broad. Upon receiving these reports, the Governor made the usual order of concession, declaring the petitioner "owner of the land between the Arroyo de las Nueces and the Sierra de los Golgonos, bounded by the said places and by the ranchos of San Ramon, Las Juntas and Monte del Diablo; and directing the expediente to be sent to the Most Excellent Deputation for their due approval. The grant or final title, in what would seem to be strict compliance with the Colonization Laws, was withheld until the approval of the Assembly had made the grant definitively valid.

On the eleventh of July, 1834, the Assembly passed a resolution approving "the grant made to Doña Juana Sanchez de Pacheco of the place included between the Arroyo de las Nueces and the Bolbones."

On the thirty-first of July, the Governor, after referring to the resolution of approval, ordered the title to issue. It accordingly issued on the same day.

The grant, after reciting that Doña J. S. de Pacheco had petitioned for the land included between the Arroyo de las Nueces and the Sierra de los Golgonos, bounded by the said places and the

ranchos of Las Juntas, San Ramon and Monte del Diablo, and after referring to the resolution approving the grant of the land between the Arroyo de las Nueces and the Sierra de los Golgo-
nes, grants to her "the aforesaid land, declaring to her the ownership of it by these presents, and subject to the following conditions."

The fourth condition is as follows :

"The land of which mention is made is two square leagues, a little more or less, as shown by the map which goes with the expediente. The magistrate who may give the possession will cause it to be measured in conformity with the ordinance, for the purpose of marking out the boundaries, leaving the surplus which may result to the nation for its convenient uses."

It is contended on the part of the United States that by this condition the quantity of land is limited to two leagues, a little more or less.

It is urged on the part of the claimants, that the original order of concession, the resolution of approval, and the description of the land in the grant itself, clearly show the intention to have been to grant the land as delineated on the *diseño* and described in the grant ; and that if the fourth condition be construed to limit the quantity, it is repugnant to the rest of the grant, inconsistent with the previous concession and resolution of approval, and probably introduced by mistake.

If such was the intention of the Governor when he made the concession, and of the Assembly when they approved of it, the final title, issued with an express reference to, and avowed conformity with the resolution of approval, should, if possible, be so construed as to give effect to it. The inquiry therefore is, did the Governor intend by the fourth condition to limit the quantity of land granted, or is the mention of quantity to be treated as merely a misdescription of the extent of the land, which should, as at common law, yield to boundaries, when the latter are distinctly mentioned, and when such construction is necessary to give effect to the intention of the parties ?

In the case of the *United States v. Wright*, it was held by this Court, that where land had been granted by specific boundaries,

which included in fact about eight leagues, and the condition specified the extent as four leagues, a little more or less, the grant could not be construed to embrace the larger quantity. But in that case it appeared that the petitioner himself, as well as the witnesses produced by him, had represented the land as only "three or four leagues in extent." The Governor, therefore, in limiting the grant to the quantity represented to be included within the boundaries, either merely carried into effect the understanding and intentions of all parties, or else the representations were fraudulent, and the parties to the deception could not in a Court of equity be allowed the fruits of their fraud.

It seemed to the Court in that case that justice would be satisfied and every substantial right protected by limiting the extent of the land to the quantity which the Governor intended to grant and the petition asked for.

But the case at bar is different. The Governor was fully apprised of the extent of the land, not only by the testimony of the witnesses produced before the Alcalde, but the *disceño* which was submitted both to the Governor and the Assembly, and which is referred to in the condition, shows the land included within the boundaries to be of about the extent mentioned by the witnesses. The boundaries mentioned in the concession, the resolution of approval, and the grant, are the same as those indicated on the map, and the Governor in all probability derived his description of the land from that source. It is clear from this fact, as well as the express language of the condition, that the Governor intended to grant the land "as shown by the map;" and that map contains a scale which must, independently of other information, have apprised the Governor that the quantity was greater than two leagues.

In this, as in all analogous cases, the only object of the Court should be to carry out the intentions of the granting power. When, therefore, we find the land granted by specific boundaries, and those boundaries represented to the grantor to contain a certain quantity; when the grantor's attention has been directed to the point; and on ascertaining that the quantity is the same as that represented he nevertheless proceeds to grant all the land within those boundaries, and refers to the map which clearly indicates the quantity—

United States v. Murphy.

under all these circumstances, we must consider that the intention was to grant all the land included within the boundaries, notwithstanding that in a subsequent condition the quantity may be erroneously stated.

That conditions applicable only to one species of grants were often inserted by mistake in grants of a different species is notorious. In this case the mention of two leagues as the extent of the granted land is perhaps owing to the fact that the clerk who drafted the document forgot that a tract two leagues broad by two wide contained four and not two square leagues.

However this may be, we think it clear that in this case all the land within the boundaries was intended to be granted; and as there is no proof or suggestion that the land so included exceeds in extent the quantity testified to by the witnesses before the Alcalde, that the claim should be confined to the tract as described in the grant and delineated on the map.

THE UNITED STATES, APPELLANTS, *vs.* JAMES MURPHY,
CLAIMING THE RANCHO CASADORES.

THE validity of claims under the Sutter General Title affirmed in Hensley's case,
No. 33.

Claim for four leagues of land in Sacramento county, confirmed by the Board, and appealed by the United States.

WILLIAM BLANDING, United States Attorney, for Appellants.

THORNTON & WILLIAMS, for Appellee.

The claim of the appellee in this case is founded on the general title issued by Micheltorena in 1844, the validity of which has already been affirmed by this Court in the case of *United States v. S. J. Hensley*, No. 33. The testimony of Gen. Sutter shows the original grantee, Ernest Rufus, to have been one of those in whose favor the general title issued. It also appears that the condition of

United States *v.* Chana.

occupation and cultivation were fully complied with, and the diseño which accompanies the petition indicates the tract granted with clearness and precision.

The claim was confirmed by the Board, and the case has been submitted without argument or objection on the part of the United States.

The decision of the Board must therefore be affirmed, and a decree of confirmation entered.

THE UNITED STATES, APPELLANTS, *vs.* CLAUDE CHANA,
CLAIMING THE RANCHO NEMSHAS.

THE validity of claims under the Sutter General Title affirmed in Hensley's case,
No. 33.

Claim for four leagues of land in Yuba county, confirmed by the Board, and appealed by the United States.

WILLIAM BLANDING, United States Attorney, for Appellants.

THORNTON & WILLIAMS, for Appellee.

The claim in this case rests upon what is known as the "general title" of Governor Micheltorena. The validity of that title has already been affirmed by this Court in the case of the *United States v. S. J. Hensley*, No. 33, and the only inquiries that arise are whether the person from whom the claimant derives title was one of those for whose benefit the title issued—whether he has performed the conditions, and whether the land intended to be granted is sufficiently indicated. On the first point the evidence leaves no room for doubt. The documents contained in the expediente and the evidence on file clearly show that Pedro Teodoro Sicard was one of those who petitioned the Governor, on whose applications Gen. Sutter had reported favorably, and for whose benefit the general title issued and was delivered to the latter. The copy of the general title which Gen. Sutter delivered to each petitioner in

United States v. Stevenson.

whose favor it had issued is produced, with the certificate of Sutter showing it to be a copy of the original.

The Board does not seem to have entertained any doubt as to the fact that Sicard was intended to be one of the grantees under the general title. The evidence also shows that the conditions of occupation and cultivation were fully complied with, and the situation and boundaries of the land are indicated with great precision in the petition and *diseño* which accompanies it.

The claim was confirmed by the Board, and the case has been submitted without argument or objection on the part of the United States to its validity.

We are of opinion that a decree affirming the decision of the Board should be entered.

THE UNITED STATES, APPELLANTS, *vs.* JONATHAN D.
STEVENSON *et al.*, CLAIMING THE RANCHO MEDANOS.

No objections made to the confirmation of this claim.

Claim for two leagues of land in Contra Costa county, confirmed by the Board, and appealed by the United States.

WILLIAM BLANDING, United States Attorney, for Appellants.

VOLNEY E. HOWARD, for Appellees.

The claim in this case is for a piece of land called "Medanos," embracing two square leagues "a little more or less." It was confirmed by the Board, and the cause has been submitted to this Court on appeal, without argument, or the statement of any objection to its validity.

The title paper is produced by the claimants and its genuineness duly certified. The expediente from the archives not only shows that the preliminary proceedings were in due form, but that the grant was confirmed by the Departmental Assembly about six months after its date. It is also shown that the conditions were

Garcia v. United States.

fully complied with. The delineation on the *diseño* appears to be rude and inexact, but the title itself describes the boundaries of the tract with some precision. In that document the land is mentioned as that known by the name of "Medanos," and bounded on the south by the land of citizen Noriega, on the north by that of citizen Salvio Pacheco, on the east by the river San Joaquin, and on the west by the "lomarias" or small hills. The third condition states the extent of the granted land to be two square leagues, a "little more or less." Some of the witnesses appear to have supposed that the land embraced within these boundaries would include a tract of far greater extent than that mentioned in the condition. But it is clear that they have confounded the lomarias mentioned in the grant with the range of mountains known as the Contra Costa hills, which lie at a considerable distance, and which would, if taken as the western boundary, not only include a tract of country of great extent, but also one or more intervening ranchos.

It would seem, however, that the "lomarias" spoken of are a range of low hills, and that the land included within these and the other boundaries of the grant has about the extent mentioned in the grant.

Such appears to have been the view taken of the case by the Board, and we see no reason for a different conclusion.

The mesne conveyances appear to be regular. Under the proofs offered, the claimant, Stevenson, is entitled to a confirmation of the part conveyed to him by the deed as reformed according to the intentions of the parties under the decree of the District Court of this State.

A decree affirming the decision of the Board must be entered.

RAFAEL GARCIA, CLAIMING NINE LEAGUES OF LAND IN MENDOCINO COUNTY, APPELLANT, *vs.* THE UNITED STATES.

A MERE permission to search for and take possession of land did not bind the Mexican Government to make a title: consequently, the United States are not required under the treaty to recognise this claim.

This claim was rejected by the Board, and appealed by the claimant.

E. L. GOOLD, for Appellant.

WILLIAM BLANDING, United States Attorney, for Appellees.

In support of his claim the appellant exhibits an order of Micheltorena, dated Nov. 15th, 1844, which is as follows:

"According to your memorial of the fourteenth instant, you ask for the grant of a passport to penetrate into the points of the coast on the northern line of this country, with the object of locating a tract of land of the extent of eight to nine leagues, since that which you now occupy, with your personal property, is so limited. By this order you are empowered to appear before the military commanding authority of that frontier, in order that after an examination you may proceed to your research after the tract of land you ask for as a recompense for the services rendered by you to the nation. If you should happen to select any tract of land, you are empowered to occupy it with your said property, and to take possession of it while the usual procedure is being prosecuted, presenting the requisite sketch. God and Liberty.

"MANUEL MICHELTORENA.

"MONTEREY, Nov. 15th, 1844.

"To DON RAFAEL GARCIA, at his Rancho."

Availing himself of the permission thus granted, the claimant appears to have selected a tract of land, and to have occupied and improved it to some extent. No steps, however, were taken by him to obtain a title until March 4th, 1846, when Garcia addressed a petition to Gov. Pico, in which, after referring to the order of Micheltorena, he solicits a grant of the land. Gov. Pio Pico, by a marginal order dated April 7th, 1845, referred the petition to the Alcalde of San Rafael for the usual *informe*. On the twenty-ninth of April, 1846, the Alcalde reported that the land did not belong to any private individual.

The foregoing constitutes all the evidence of title produced by

the claimant. It is not pretended that any grant was ever issued for the land, or that any further action whatever was taken by Pio Pico on receiving the Alcalde's *informe*. Whether he determined not to grant the land, or whether he omitted to do so in consequence of the distracted condition of public affairs, we are ignorant; one fact is clear—no grant was obtained by the claimant.

It is contended that the permission given by Micheltorena to search for a suitable tract, and to occupy it, if found, "*while the usual procedure is being prosecuted*," gave to the claimant an equity which, when coupled with subsequent occupation, this Court is bound to respect. But the permission in this case is widely different from the concessions or warrants of survey which in the Louisiana and Florida cases were held to constitute inchoate or equitable titles.

A brief reference to the mode of granting public lands in Louisiana and Florida, as compared with that established by the colonization laws, will show that the decisions applicable to inchoate titles under the former system can have no application to the present case.

In Louisiana and Florida, the granting officer, on receipt of the petition, issued a concession to the party, authorizing him to have his land surveyed by the official surveyor. If the surveyor found the land to be vacant, and that it would not interfere with the rights of others, he returned a plat or figurative plan, and the party thereupon obtained an absolute grant. The preliminary concession was, as its name imports, a grant, and usually conceded, as in *Glen's case* (13 How. 258) the land to the petitioner and his heirs. To these concessions conditions were commonly annexed, that a mill should be erected within a specified time, that the land should be cultivated, that the party should levee and ditch the river front in Lower Louisiana, etc. Where, then, a party had obtained a concession, but had omitted to procure the subsequent absolute title on the completion of the survey, the title acquired by the concession was held to be inchoate and imperfect, and the real equity of the claimant was deemed to consist in the performance of the conditions or contract specified in the concession. The implied promise or assurance contained in the concession, that the title should issue provided the party performed the conditions, was deemed obligatory

on the conscience of this, as well as the former Government, and the claims in such cases were confirmed.

Under the Mexican system no preliminary concession or warrant of survey issued to the party. The final and absolute title was, by the regulations of 1828, the first and only document which the petitioner received, and conditions subsequent were introduced into the final grant, by which, on their nonperformance, the estate of the grantee could be divested.

A mere petition to search for land, such as that given to the present claimant, finds no place in the Mexican system; nor can a naked authority to take possession be likened to those preliminary concessions, under and on the faith of which the land was surveyed and the conditions fulfilled in Louisiana and Florida.

The application of Garcia to Micheltorena was for a passport to enable him to search for land. In granting this, and also the permission to put his cattle upon the tract he might select, Micheltorena in no respect bound himself or his successors to issue a final title. Such seems to have been the view of Pio Pico and the claimant himself, for a petition, accompanied by the usual *diseño*, is formally presented to that officer and by him referred for information as in other cases.

Had the order of Micheltorena contained any words which might be construed to import a present grant, the case might be different. But none such are to be found. If this claim is to be confirmed, every provisional license or permission temporarily to occupy land must be held to constitute an equitable title, provided the claimant has availed himself of the permission—a ruling which would astonish no one more than the old inhabitants of the country, by whom the importance of obtaining a “title” from the Governor was well understood.

For aught we know, Pio Pico, when the petition was subsequently presented, found it inexpedient to grant the land; and if the claimant, under a mere permission to occupy it with his cattle, has built a house upon it, and for two years omitted any effort to procure a title, he must attribute the loss of the land to his own neglect.

Such was the view taken of this claim by the Board, by whom it was unanimously rejected, and in that decision I concur.

United States v. Rico.

THE UNITED STATES, APPELLANTS, *vs.* FRANCISCO RICO
et al., CLAIMING THE RANCHO DEL RIO ESTANISLAO.

THIS claim, though subject to suspicion as to the *bona fides* of the grant, must be confirmed on the testimony presented.

Claim for eleven leagues of land in Stanislaus county, confirmed by the Board, and appealed by the United States.

WILLIAM BLANDING, United States Attorney, for Appellants.

JEREMIAH CLARKE, for Appellees.

The claim in this case was confirmed by the Board of Commissioners.

We have examined the testimony contained in the transcript, and, though there is room for doubt as to the genuineness of the grant, we have found nothing to justify us in reversing the decision on the ground that it is a forgery. It is true that a fatality not usual seems to have attended this grant, for not only do the signatures of Jimeno and Micheltorena present a somewhat suspicious appearance, but the expediente, which might have confirmed or dispelled doubts as to the authenticity of the grant, has been lost while in the custody of an officer to whom such documents were not ordinarily entrusted. But whatever doubts may be suggested by these and other circumstances, we are met by the positive testimony of witnesses who saw the grant executed, as they swear, and one of whom actually drew it up. The Board who heard the witnesses testify, and who had other means of judging of their credibility than this Court possesses, confirmed the claim; and the case has been submitted to this Court without argument or observation of any kind on the part of the United States. No additional testimony has been taken since the decision of the Commissioners, and we are left to confirm or reverse the decision of the Board, with only such light as to the merits of the case as is afforded by a perusal of the transcript.

To pronounce this grant a forgery, we should entertain some-

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thing more than a suspicion as to its genuineness ; and as the Board, who saw the witnesses and examined the original grant, confirmed the claim, we do not feel authorized to reverse its decision.

A decree of confirmation must therefore be entered.

JAMES NOÉ, CLAIMING THE ISLAND OF THE SACRAMENTO, APPELLANT, *vs.* THE UNITED STATES.

ENTITLED to confirmation under the ruling of the Supreme Court in Fremont's case.

Claim for five leagues of land in Yolo county, rejected by the Board, and appealed by the claimant.

CALHOUN BENHAM, for Appellant.

WILLIAM BLANDING, United States Attorney, for Appellees.

It appears by the title papers produced in this case, that on the tenth of May, 1841, Robert Elwell presented a petition to Governor Alvarado for a tract of land on the Sacramento river. The petitioner set forth that for sixteen years he had been a resident of the country, and had a numerous family. He also stated that the various political changes in the country had impaired his capital, part of which had been furnished to the different Governors, as his excellency was aware. The petitioner further alludes to his services in the militia, for which he never received any pay, owing to the scarcity of funds in the national exchequer. He therefore begs that his excellency, not forgetting the duty of generously recompensing the services of faithful subordinates, and also "the necessity of giving an impulse to the progress of agriculture in the country," and supported as he was by the colonization laws which so fully authorized him to make concessions of land, might grant him the tract solicited.

On the margin of this petition the Governor writes : " In consideration of the services and merits herein mentioned, I grant him

(the petitioner) the land he requests, with the understanding that he shall abide by the reports that must be asked for as to whether the land has been granted for the benefit of some private individual, pueblo or corporation, with all the rest that may be deemed convenient, so soon as he shall accompany the plan which will head the formation of the expediente."

This petition and marginal decree appear to have remained in the possession of the petitioner, nor were any further steps taken by him to obtain a more formal title. He states, however, in his deposition, that a plan was furnished to the Governor such as was deemed sufficient, but the expediente which it was to "head" is not produced from the archives.

No efforts of any kind appear to have been made by the petitioner to settle upon or occupy his land, and the title papers seem to have remained in his possession until 1852, when he sold to the present claimant.

In explanation of his failure to occupy the land, the grantee states that he was prevented from doing so at the time of the grant by the danger from the Indians, and afterwards by the disturbances in the country.

José Castro, a native Californian of some distinction, and who has held the offices of Governor, Prefect and Commandant General of the Territory, deposes that from 1841 until the change of government the whole region of country above Sutter's fort, or New Helvetia, was not in a situation to be settled upon by individual grantees, owing to the hostility of the Indians. The Government rarely sent any troops to maintain settlements, and only for short times and few in number, during the period from 1841 to the change of government.

Nathan Coombs, whose deposition was taken in this Court, and who has resided in the country since 1843, testifies that from that year, when he first knew the land, the Indians in the neighborhood were hostile to the whites. That near the head of the island there was a rancharia, and the Indians were very numerous. That a company from Oregon, of which he was a member, had a fight with a large body of them, from five hundred to one thousand strong, and that during the same season Captain Sutter with a party of men also had an engagement with them.

The above comprises all the evidence offered in excuse or explanation of the omission of the grantee to fulfill the conditions of his grant.

The first question that arises under this state of facts is, did the marginal decree of the Governor convey to the petitioner "a present and immediate interest, either legal or equitable, in the land?"

The form of the grant is entirely unusual. The marginal decrees of the Governors were in ordinary cases but references for information, and the expedientes usually contain the petition, the *diseño*, the marginal order of reference, the reports of the officers, and the order or decree of concession by the Governor—the latter generally commencing with the words "*Vista la petición.*"

The documento or final title was then made out in conformity with the order of concession. In this were expressed the conditions of the grant, its extent, etc., and it was delivered to the party interested as his title deed. A copy, however, was usually attached to the other documents above enumerated, forming the expediente on file in the archives; but the copy was frequently not signed, it being thought sufficient if the title paper delivered to the party was properly authenticated. The title paper was usually signed by the Governor and Secretary.

The expediente, when thus completed, was transmitted to the Assembly for their action, and if the grant was approved, a certificate of the fact was given to the grantee.

I have met with no case where these forms were not substantially complied with when grants under the colonization laws were made. In the case at bar, the only document relied on as a grant is the order or decree written on the margin of the petition. Undoubtedly the Governor uses words of grant—"I grant him the land which he requests"—but the condition or qualification annexed, that the petitioner should abide by the reports, etc., clearly shows that the Governor did not intend his marginal decree to operate as a definitive concession of the land.

In the case of *Arguello vs. The United States*, decided at the last term of the Supreme Court, the Court, in speaking of the order of concession in that case, (which was the decree already alluded

to, beginning with the words—"Vista la petición," and which was certainly a more formal decree than the marginal order in the present case) say: "By the fourth section, the Governor, being thus informed, may 'accede or not' to the petition. This was done in two ways; sometimes he expressed his consent by merely writing the word *concedido* at the bottom of the expediente; at other times with more formality. * * It is intended merely to show that the Governor has acceded to the request of the applicant, and as an order for the patent or definitive title to be drawn out for execution. * * It has none of the characteristics of a definitive grant."

But the marginal decree in this case cannot even be regarded as an order for the definitive grant to be made out. For the Governor clearly intimates that reports are to be received, the *diseño* to be furnished, and the expediente to be formed, before the final title issued. The marginal order must, I think, be taken merely as showing that the Governor has acceded to the petitioner's request, and agrees to grant him the land if the reports, etc., should be favorable. But it is to be observed that the information required by the Governor was only as to whether the land was the property of any one else, and the absolute terms of the order itself, as well as the language of the qualification added to it, perhaps justify us in considering it as a positive promise to grant the land to the petitioner in consideration of his just claims upon the Government, provided it should turn out that the land was vacant.

The right thus acquired by the petitioner was an equitable claim upon the Government to have his title perfected, and had he gone on to occupy and improve his land, and had he been found at the acquisition of the country in the possession and enjoyment of it, the United States would have been clearly bound to respect his rights. But so far as the evidence discloses, the petitioner never went upon the land during the existence of the former government.

The causes of his omission to do so, as shown by the evidence, were the usual ones of Indian hostilities and political disturbances. No testimony has been taken to show that the obstacles to a settlement might have been overcome; nor has it been made to appear to the Court, on behalf of the United States, that any one demanded

the land. Compelled as we are to be governed by the evidence in each particular, we must accept facts as true which are established by the uncontradicted testimony of unimpeached witnesses. It would seem clear then, from the testimony, that from the time of the grant until the American occupation, the settlement of the land was impracticable. The omission to occupy cannot, therefore, raise any presumption of a voluntary abandonment by the grantee.

That such a delay would not probably have forfeited the land under the Mexican laws and usages, unless some other person was ready to appropriate the lands and thus carry out the policy of the Government, was intimated by the Supreme Court in the case of Fremont. More especially would the grantee be entitled to indulgence where the grant was "not made merely to carry out the colonization laws, but in consideration of previous public services."

The circumstance which suggests most strongly the idea that the grantee did in truth abandon all thought of profiting by his grant, is his omission to make further application for the usual and formal title. I have endeavored correctly to estimate the force which should be given to this consideration. It has seemed to me that it would perhaps be going too far to infer such an intention from the grantee's omission in this particular. As to his acts and declarations from the time of the grant until the conveyance to the present claimant, we are wholly uninformed. Whether he continued to assert his rights to the land, and whether those rights were recognized by the Government, we are ignorant. And in the absence of proof we are perhaps justified in supposing that he considered his right to the land sufficiently secured by the title he had received, particularly as the causes which prevented a settlement by him would also deter others from applying for the land.

But admitting that the explanation of the grantee's delay in this case is sufficient, within the rule laid down in Fremont's case, to repel the idea of a voluntary abandonment and consequent forfeiture, it is to be remembered that the grant in this case was not like that to Alvarado, a definitive or final title with conditions subsequent annexed. It was but an inchoate or imperfect grant, and as has been shown, cannot be regarded as a grant under the colonization laws passing final title to the land.

The inquiry in this case would therefore seem to be, not as in Fremont's case, whether the omission to perform conditions subsequent had forfeited an estate vested in the grantee by a formal and definitive grant, but whether he is in equity entitled to a completion and perfection of the inchoate title or equitable right he received from the former Government.

Under the Mexican colonization laws the strongest claim he could urge would be the fact that he had, by settling upon and improving the land, given the only consideration for the grant their laws or policy required.

But in this case he can found his claim upon no such consideration; and though he may not be deemed to have voluntarily abandoned his grant, yet he can allege nothing done by him subsequent to it, or on the faith of it, which strengthens his equitable claim either upon this or the former Government. If then this grant had been solely on consideration of future settlement and occupation, it seems to me that it should be rejected.

But it appears that the petitioner had other claims, not merely on the bounty but on the justice of the Mexican Government. In his petition he appeals to the Governor's knowledge of the fact that he had impaired his capital by furnishing money to different Governors, and that he had faithfully served in the militia without receiving pay, owing to the scarcity of funds in the national exchequer. He asks for the grant as a recompense for his services, as well as because it would be in accordance with the policy of the colonization laws. The Governor, in acceding to the petition, expressly says that he does so "in consideration of the services and merits herein mentioned;" and by the testimony of Alvarado himself, taken in this Court, it appears that the petitioner was actually a creditor to the Government for advances made by him, as well as entitled to its consideration for his patriotic services.

In the case of Fremont the Supreme Court say: "Although this cannot be regarded as a money consideration, making the transaction a purchase from the Government, yet it is the acknowledgment of a just and equitable claim; and when the grant was made on that consideration, the title in a court of equity ought to be as firm and valid as if it had been purchased with money on the same condition."

But in that case the consideration alluded to was the "patriotic services of the petitioner, and they are only referred to in the grant as entitling his application to a "preference" over other applications for favorable consideration. But in the case at bar the petitioner had not only faithfully served the country, but appears to have been a creditor for advances made by him and pay due to him as a soldier.

The observations of the Supreme Court apply, therefore, with great force to the present case. If then the petitioner cannot be deemed to have voluntarily abandoned his grant, it has seemed to me that the equitable right he acquired, on the considerations mentioned, ought to be respected, although he has failed to furnish the other consideration of settlement and occupation, upon which in general Mexican grants were made. It can hardly be doubted that, as testified by Alvarado, the former Government would have felt itself bound to perfect a title promised to him by the Governor under such circumstances; and that the grant by the latter of the land, provided it was vacant, would, had the petitioner subsequently applied for the formal title, have been treated as giving him a right to have it issued. That equitable obligation is as binding on the conscience of this as of the former Government, and it has, after much consideration, appeared to me that the claim should be confirmed.

The counsel for the claimant has urgently pressed upon the Court that the grant in this case was not made under the colonization law of 1824, and the regulations of 1828, but under the law of April 4, 1837. (1 Rockwell, 627.) But this view cannot be supported. That law, even if it were ever carried into effect in California, merely authorizes "the Government with the consent of the Council," to give effect to the colonization of the lands of the Republic, by means of sale or mortgage—"applying the amount to the redemption of the national debt," etc.

This evidently confers the authority on the Supreme Government, and we accordingly find that a decree was made by the Supreme Government in virtue of the authority conferred by the law of the fourth of April, by which a national consolidated stock was created, and 100,000,000 acres of land, in various departments,

pledged to secure it. In case the land so pledged should be sold, it was provided that the sale should be at the rate, at least, of four acres to the pound; and the purchase money was to be paid by the purchaser to Government agents in London, to be used by them for the redemption of the stock.

It is evident that the grant in the case at bar was not a purchase under this law. The petition itself repels such an idea, for the petitioner refers to the colonization laws, and their intention and policy, as giving authority and furnishing a proper inducement to the grant.

It is clear that this grant was a concession under the colonization laws—not a sale under the law of 1837.

The land is described in the petition as situated in the "waste part of the Sacramento frontier, about eighteen leagues from the establishment of Don Aug. Sutter. This land is bounded by the Sacramento river like an island, and is indicated by a hill on the bank of the river, which there divides itself into two arms east and west, and contains five square leagues, more or less, agreeably to the plan which I shall present as soon as circumstances shall permit me so to do."

The Governor granted the petitioner the land he requested. The *diseño* has not been produced, although the grantee testifies that it was furnished.

It nowhere appears from the evidence what quantity of land is embraced within the limits of the island mentioned by the petitioner. The grant could not, however, by law, have been for a greater quantity than eleven leagues.

The tract is described in the petition as "bounded by the Sacramento river like an island," and the Governor in his marginal decree grants "the land solicited." The subject of the grant would therefore seem to be the island mentioned; and we think the claim should be confirmed to the land included within its limits, provided that they do not embrace more than the quantity of eleven leagues.

It is stated by counsel that the quantity of land included in the island is somewhat more than six leagues. The petitioner represents it as five leagues, more or less. This is perhaps as close an approximation to the real quantity as often occurred under the loose and inaccurate ideas of the extent of land formed by the former in-

habitants of this country; and as the Governor, we think, intended to give the island, and as no deception seems to have been practiced upon him, the claim should be sustained for the whole land which the petitioner intended to solicit, and the Governor to grant.

THE UNITED STATES, APPELLANTS, *vs.* MANUEL RODRIGUEZ, CLAIMING THE RANCHO BUTANO.

THE validity of this claim established by archive evidence.

Claim for one league of land in Santa Cruz county, confirmed by the Board, and appealed by the United States.

WILLIAM BLANDING, United States Attorney, for Appellants.

JEREMIAH CLARKE, for Appellee.

The claim in this case was confirmed by the Board. An appeal having been taken on the part of the United States, but the cause has been submitted to this Court without argument, or the suggestion, on the part of the appellant, of any objection to the validity of the claim.

The claimant, and those under whom he derives title, appear to have been in possession of the premises in question for nearly twenty years; and though the original title delivered to the interested party has been recently lost, we agree with the Board in considering the secondary evidence of its contents as sufficient.

In all these cases, the evidence from the archives is perhaps even more satisfactory than that afforded by the production of an alleged original title; for the facilities for the commission of a forgery of this single paper are far greater than are offered for the perpetration of the same crime, when numerous documents have to be forged and subsequently introduced among the archives. A list of the latter have long since been made, and no new expediente could now be placed amongst them without imminent risk of detection.

United States *v.* Sheldon et al.

In this case the record of the proceedings is full and minute, and the character of the documents and the number of the signatures afford intrinsic evidence of genuineness. If to this be added the fact of long continued possession, from a date anterior to the provisional grant, we are unavoidably led to the conclusion that the grant must have issued at the time and in the terms alleged by the claimant.

We think a decree of confirmation should be entered.

THE UNITED STATES, APPELLANTS, *vs.* CATHERINE
SHELDON *et al.*, CLAIMING THE RANCHO OMOCHUMNES.

THE validity of this claim not disputed.

Claim for five leagues of land in Sacramento county, confirmed by the Board, and appealed by the United States.

WILLIAM BLANDING, United States Attorney, for Appellants.

ROBINSON & MORRISON, for Appellees.

This case has been confirmed by the Board and submitted to this Court without argument or the production of additional testimony.

There cannot, we think, be any doubt as to the genuineness of the grant; nor does such an idea seem to have been suggested. The temporary loss of the first expediente and its subsequent discovery among the archives, and the confusion and mistake which arose, of themselves afford strong evidence of the authenticity of the proceedings.

The grantee appears to have resided on his land from 1844, a few months after he received his grant, until his death in 1851.

We see no reason to reverse the decree of the Board, and a decree affirming must therefore be entered.

THE UNITED STATES, APPELLANTS, *vs.* MARIA ANTONIA
PICO *et al.*, CLAIMING THE RANCHO PUNTA DEL AÑO NUEVO.

THIS claim not contested by the United States.

Claim for four leagues of land in Santa Cruz county, confirmed by the Board, and appealed by the United States.

WILLIAM BLANDING, United States Attorney, for Appellants.

STANLY & KING, for Appellees.

The claim in this case was confirmed by the Board, and has been submitted to us without argument or observation, or the production of additional testimony. The grant is produced and proved, and the expediente is duly found in the archives of the former Government.

The occupation of the land by the grantee in 1840, two years before the title issued, is also shown ; and it further appears that in 1842 another house was built by him, and that wheat, corn, beans, melons and potatoes were cultivated by him. There is nothing in the testimony to afford the slightest presumption of an abandonment of his grant by the grantee during the existence of the former Government.

The Board, after an attentive examination of the grant and accompanying *diseño*, came to the conclusion that the intention of the Governor was to grant by metes and bounds. The description of the boundaries is unusually precise, and there is no reason to suppose that the quantity of land included within them exceeds that mentioned in the grant.

We think that the decision of the Board should be affirmed and a decree of confirmation entered.

McKee v. United States.

WILLIAM H. MCKEE, CLAIMING THE RANCHO JACINTO, APPELLANT, *vs.* THE UNITED STATES.

THE objection by the Board met by further testimony taken in this Court.

Claim for eight leagues of land in Colusi county, rejected by the Board, and appealed by claimant.

E. W. F. SLOAN, for Appellant.

WILLIAM BLANDING, United States Attorney, for Appellees.

The claim in this case was rejected by the Board, not however because any doubt was entertained as to the genuineness of the grant, but because no sufficient performance of the conditions was shown. The subsequent decision of the Supreme Court in the case of Fremont has established a different rule for our guidance, and the testimony taken in this Court on appeal is abundantly sufficient to remove the only objection urged by the Board to a confirmation of the claim.

Abner Bryan swears that the rancho claimed by the appellant was known as Dr. McKee's rancho; that in 1846 and 1847 he was employed by McKee to take charge of and cultivate it; that he built a house upon and planted it with corn, wheat and potatoes; that he had upon it about one hundred head of cattle, and from twenty-five to thirty horses and some hogs. The witness remained on the land until the end of 1847, when he left it, and Capt. G. Swift took charge of the stock.

José Castro testifies that Rodrigues, the original grantee, was a civil and military officer of the Mexican Government; that on receiving his grant he was not required to occupy the land, as his services were needed in the army. He was subsequently transferred from the military to the civil service, but was required to hold himself in readiness for service in the army. He continued to be employed until July, 1846, in the custom house at Monterey, except at intervals when he was called into military service.

The witness further states that at the time of obtaining his grant in 1844, the Government owed him about half of what he had

earned as an officer of the army, but it was without funds to pay him, and the witness states his belief that the debt has never been paid.

The grant in this case does not contain the usual condition of occupation and inhabitation, and the above testimony satisfactorily explains the reasons of the omission.

We think that there is no evidence in the case to authorize the presumption that the claim was abandoned by the grantee, or that he is now attempting to resume it owing to the enhanced value of the land. On the contrary, the reasons of his delay are fully explained, and were such as were not only received by the former Government, but were immediately owing to their own express commands.

We think, therefore, that a decree of confirmation should be entered.

MARIANO G. VALLEJO, CLAIMING THE RANCHO YULUPA, *vs.*
THE UNITED STATES.

THE objection that the land claimed was not segregated from the public domain, removed by further testimony taken in this Court.

Claim for three leagues of land in Sonoma county, rejected by the Board, and appealed by the claimant.

B. S. BROOKS, for Appellant.

WILLIAM BLANDING, United States Attorney, for Appellees.

The claimant in this case has produced the original grant by Gov. Micheltorena to Miguel Alvarado, dated Nov. 23d, 1844.

This grant was approved by the Departmental Assembly on the eighteenth of February, 1845.

The genuineness of the grant is fully proved, and the occupation of and the cultivation of a portion of the land established by testimony. The claim was rejected by the Board for the reason that the tract granted was not segregated from the public domain.

Rodriguez et al v. United States.

The land is described in the grant as known by the name of Yulupa, and bounded by the ranchos of Petaluma, Cotate, Santa Rosa and Los Guilicos. Jasper O'Farrell, who was a Government Surveyor in 1847 and 1848, and as such surveyed several ranchos in the vicinity, states that he knows the latter well, and that the rancho Yulupa is situated between them; that it is near the town of Sonoma, and can easily be segregated from the adjoining ranchos. Julio Carillo testifies that he has known the lands of Yulupa since 1838; that it lies between the ranchos of "Petaluma," "Cotate," "Santa Rosa" and "Guilicos;" that it contains about three leagues and is well known. The witness further states that Alvarado built a house on the land, and occupied it with cattle and horses in 1843 or 1844.

The evidence of these and other witnesses whose testimony has been taken in this Court on appeal, sufficiently, in my opinion, establishes the identity of the land granted to Alvarado, and removes the only objection urged to a confirmation of the claim.

A decree of confirmation must therefore be entered.

RAMON RODRIGUEZ *et al.*, CLAIMING THE RANCHO AGUA
PUERCA Y LAS TRANCAS, APPELLANTS, *vs.* THE UNITED
STATES.

OBJECTIONS by the Board met by the additional testimony taken in this Court.

Claim for one league of land in Santa Cruz county, rejected by the Board, and appealed by the claimants.

D. S. GREGORY, for Appellants.

WILLIAM BLANDING, United States Attorney, for Appellees.

The claim in this case was rejected by the Board on the grounds: 1st. That there was no proof of occupation and cultivation. 2d. No juridical measurement or possession. 3d. No proof of the boundaries or of the quantity of land included in the claim. These

objections have been met by additional testimony taken in this Court.

José de la Cruz Rodriguez deposes that he was born within a few miles of the rancho ; that its boundaries are well known ; that they are, on the north the Sierra, on the east the Cañada of Agua Puerco, on the south the ocean, and on the west the Cañada de las Trancas. He also swears that in March, 1844, which was about five months after the grant, it was occupied by Rodriguez and Alviso, the grantees ; that they built houses and corrals, and lived upon it for two years after that time, and that it has remained in their possession ever since. Cornelio Perez testifies to the same effect. And Hiram L. Scott not only testifies to the general recognized boundaries of the tract called "*Agua Puerca y las Trancas*," but states that the land contained within them is about a league.

No question appears to have been made before the Board as to the authenticity of the grant, and the case has been submitted to this Court without argument on the part of the United States.

The boundaries of the tract as sworn to by the witnesses are the same as those mentioned in the grant ; and the quantity of land contained within appears to correspond with sufficient exactness to that mentioned in the condition, viz : "one league, a little more or less, as explained by the sketch." I think, therefore, that the claim should be confirmed according to the boundaries mentioned in the grant and as shown on the map.

THE UNITED STATES, APPELLANTS, *vs.* MANUEL AL-
VISU, CLAIMING THE RANCHO QUITO.

No objection to the validity of the claim.

Claim for three leagues of land in Santa Clara county, confirmed by the Board, and appealed by the United States.

WILLIAM BLANDING, United States Attorney, for Appellants.

THORNTON & WILLIAMS, for Appellee.

The claim in this case was confirmed by the Board. It has been submitted to this Court without argument or the statement on the part of the appellants of any reasons for reversing their decree. No doubt seems to have been entertained by the Commissioners as to the authenticity of the grant. The original is produced, and the expediente is found in the archives. The land was occupied and cultivated by the original grantees, and has continued in their possession and that of persons claiming under them until the present day. Its boundaries are well known, and described with considerable precision in the grant and accompanying map. We see no reason for reversing the decision of the Board.

The claim must therefore be confirmed.

THE UNITED STATES, APPELLANTS, *vs.* TEODORA SOTO,
CLAIMING THE RANCHO CANADA DEL HAMBRE.

THE weight of the evidence is in favor of this claim.

Claim for three leagues of land in Contra Costa county, confirmed by the Board, and appealed by the United States.

WILLIAM BLANDING, United States Attorney, for Appellants.

CROCKETT & PAGE, for Appellee.

The documentary evidence produced from the archives in this case shows that in May, 1842, Teodora Soto petitioned the Governor for a place called "La Cañada del Hambre." She represented that her deceased husband, Francisco Barcenas, had obtained a provisional grant of the land and had occupied it with his cattle. That shortly afterwards he was obliged to leave it in consequence of a fire which destroyed the pasture, and had since accidentally been killed. She therefore solicited the Governor to grant her the

land, though only provisionally, and until she could present a new sketch, and reminded him of the services of her late husband in the army for more than ten years, and that on his discharge more than half his pay was due him. The Prefect Guillermo Castro, to whom the Governor referred for information, reported that Barcenas had occupied the land provisionally until he should obtain the grant; that he built a corral, but that it was burnt, and Barcenas was obliged to withdraw from the premises, and soon after met his death.

It appears, also, from the report of Estrada, that the expediente of the grant obtained by Barcenas could not be found in the archives; but José Castro certified that Barcenas, in 1839, had solicited the land, and it was granted to him provisionally.

On the eighth of May, 1842, the Governor ordered a provisional grant to be issued to Teodora Soto "while she presents a plat of the land petitioned for, subject to the usual reports."

By the depositions taken in the case it appears that Barcenas moved to the Rancho of Cañada del Hambre in the year 1836; that he built a house and corral upon it, and cultivated a part of it in corn and vegetables. He remained there about two years, and after his removal and subsequent death his widow returned to it, built a large house, inclosed and cultivated a portion of the land, and has continued to live upon it ever since. She has, however, been driven from her house, and now resides in a small hut built of hides and tule and poles, which she has constructed for a shelter.

The fact of her occupation of the land is also proved by Castro, who testifies that, in 1843 or 1844, he was ordered by the Governor to report whether the land was vacant, and that he cited Teodora Soto to appear. She claimed to own the land, but did not produce her papers. She was, however, in the actual occupation of it, and Castro so reported to the Governor.

The grant alleged to have been issued by the Governor in pursuance of the order above recited is not produced. Governor Alvarado testifies that a grant was issued in 1841 or 1842, in pursuance of the decree of concession contained in the expediente.

Francisco Pereyra testifies that he saw in the possession of the claimant, in 1849, documents relative to the title of the Cañada

del Hambre ; that he read them several times ; that he saw a document issued to Teodora Soto by Alvarado, and that he was present in March or April of 1850 when these documents were delivered by Teodora Soto to General Vallejo, and that she said at the time that they were the title to the Rancho. On cross examination the witness stated that the document stated the name of Teodora's husband ; that the grant was made in consideration of his having been a soldier ; that he did not remember whether it required any conditions, nor whether it was in the usual form ; that Teodora Soto had sold a piece of the land to Vallejo in 1849, and that he received the title papers about eight months after the sale—at the time they were delivered to Vallejo he was called upon by Teodora to witness the fact.

M. G. Vallejo testified that he had the title papers in his possession some years, but that about 1850, when he and his son-in-law Frisbie came to look for them, they could not be found. In 1850, however, when Major Cooper wished to secure a preëmption in the vicinity of this land, he requested the witness to have the grant translated, and that he accordingly procured a translation to be made by Frederick Rejedor, then public translator, but since deceased. The witness then identified the translation as a correct translation of the original grant which he had seen and knew to be genuine.

The original, he says, he delivered to Capt. Frisbie to be placed in his safe, and he has never since been able to find it.

Capt. Frisbie testifies that he had the original grant in his possession in 1849 or 1850 ; that he sent it to Sonoma, and it was returned to him, as he thinks, with the translation on file in the case.

The paper when returned to him, if returned at all, was tied up in a handkerchief and thrown into an iron safe either by him or some of his clerks ; that some time after the claimant applied to him for her papers, to be used in a law suit—on opening the handkerchief he found the translation, but not the original document ; that he searched for it diligently, and wrote to General Vallejo at Sonoma for it, but could not find it. General Vallejo, he says, insisted that he had sent it back in the handkerchief, but the witness could never ascertain what had become of it.

The witness further states that he read the translation soon after

having the original in his possession ; that he then thought and now thinks the translation was correct. He identifies the handwriting of the translation as that of Rejedor, a teacher in Sonoma and a public translator in that district.

The grant, as appears by the translation, is of three sitios "of that which shall remain over from the ranchos of the Pinole and Mr. Welsh, after they shall have been duly measured."

By evidence taken in this Court on appeal it appears that both Vallejo and Frisbie were, at the time of giving their testimony, interested in maintaining the grant—having purchased a portion of the land from the claimant. The objection was not, however, taken at the time their testimony was given, nor has any motion been made to suppress their depositions. It however affects their credibility, and if the proof of the existence of the original grant rested on their testimony alone, it might well be regarded as unsatisfactory. But Alvarado, the Governor, and Francisco Pereyra both swear, the one that he issued the grant, the other that he saw it in the possession of the claimant.

The expediente contains the order of concession upon which a grant would issue as of course ; and Castro testifies that in 1842 or 1843 the claimant was in actual occupation of the land, claiming it as her own. The date of the grant in the translation is 1841 ; while the order of concession is 1842. This discrepancy was noticed by the Board ; but though calculated to excite suspicion, it was considered that it might with greater probability be attributed to a mistake of the translator than received as evidence that no such grant was ever issued.

The United States have also produced in evidence a communication of José R. Estrada to the Justice of the Peace of Contra Costa. In this communication Estrada states that he was directed by the Governor to inform the Judge that there had been dispatched to Don Ignacio Martinez the title of the tract called "Pinole ;" and that Doña Teodora Soto should be informed that the pretension she has to occupy the tract called the Cañada del Hambre has no foundation, for that it belongs to the mentioned tract of El Pinole.

This communication is dated June 2d, 1842. The order of concession in the expediente bears date May 8th, of the same year.

Alvarado, though he recognizes the handwriting of Estrada, is unable to remember that he directed the communication to be made; and all that can be inferred from the document, assuming that it was written in pursuance of the orders of the Governor, is, that the claim of Teodora Soto to any part of the Pinole Rancho was disallowed by the Government. But this would rather seem to confirm and strengthen the evidence in favor of the grant; for in that instrument the land granted is expressly limited to "three sitios of that which shall be left over from the ranchos of the Pinole and Mr. Welsh."

If, then, after the issuing of this grant the Pinole Rancho had been found to embrace any portion of the land claimed by Teodora Soto to have been granted to her, the communication of Estrada would naturally have been made, and would have been entirely consistent with the rights really acquired by Teodora Soto.

Obliged as we are in these cases to found our judgment upon testimony not in all respects reliable, it is impossible to affirm with certainty that the grant issued. I think, however, that the proofs preponderate in favor of that supposition. There seems no good reason to suppose that the Governor withheld the grant which he himself ordered to be issued. The destitute condition of the applicant, and the services and misfortunes of her husband, must have commended her application to his favor; and we find her occupying and claiming the land from about the date of the alleged grant to the present time.

The nature and extent of the improvements made by her would seem to indicate that she then considered herself as owning the land, and even the fact that in 1849 Vallejo purchased a portion of it from her might, perhaps, be considered a corroborating circumstance, for it implies a recognition on his part of her rights at an early day, and before the rise in value of the land presented temptations to manufacture spurious titles.

The Board, notwithstanding some suspicions which attend the case, confirmed the claim, and we have not discovered sufficient reasons for reversing their decision.

The claim, however, must be strictly limited to the land granted; and it can only embrace such portion of the Cañada del Hambre,

United States v. Soto et al.

not exceeding three leagues, as is not included within the limits of the ranchos of El Pinole and Mr. Welsh, when the same shall have been duly ascertained.

THE UNITED STATES, APPELLANTS, *vs.* BARBARA SOTO
et al., CLAIMING THE RANCHO SAN LORENZO.

THIS claim is valid for the land included within the boundaries named in the grant.

Claim for one league and a half of land in Contra Costa (now Alameda) county, confirmed by the Board, and appealed by the United States.

WILLIAM BLANDING, United States Attorney, for Appellants.

THORNTON & WILLIAMS, for Appellees.

The claim in this case is founded on two grants—one by Alvarado dated Oct. 10th, 1842, and the other by Micheltorena dated January 20th, 1844, for the sobrante of half a league contained within the boundaries of the first. The land was described in the first grant as follows: "One league, a little more or less, in the tract called San Lorenzo, the limits of which are from the creek of that name to that called "El Alto," pertaining to Don Jesus Valjejo, and from this creek, drawing a right line to pass by the rodeo, to the beach, and from *this point* to the first ridge which the hills form, excepting the number of varas which have been conceded in said tract to Don Guillermo Castro, which shall be determined at the time of the possession."

At the time the grant issued, Castro was owner of a tract of six hundred varas square, upon which he resided. He, in October, 1843, obtained a concession of a larger tract, which was described as "bounded by the rancho of Soto on the side next the main road, it being considered that there has already been made a concession to the said Soto on the side towards the beach.

The main road alluded to crosses the tract from creek to creek, and it was contended by Castro that the main road was the western boundary of his land, and that the grant to him was a virtual settlement of the line between him and Soto, which in the grant to the latter had been left for subsequent adjustment.

Proceedings were instituted to settle this dispute, and it was finally determined by a compromise made with the approval of the Governor. The line as thus settled was described in a document drawn up for the purpose, which appears in the archives, and a copy of which is endorsed on both expedientes.

The boundary of Castro as thus settled is as follows: "Commencing on the sanjon (or ditch) where it is parallel with the southern side of Castro's house, and down the sanjon towards the main road six hundred varas, from which point, where they conclude, by a straight line to the San Lorenzo creek. The boundary on the other side of the sanjon is the margin (orilla) of the hills towards the plain, measuring ten varas up on the hills."

These proceedings must be taken as a final and definite settlement of the eastern line of Soto's ranch, and as such it was acquiesced in and recognized by the parties. The line thus designated can, as appears from the proofs, be readily located, and the testimony of the neighbors, particularly that of Guillermo Castro, shows that the location as determined from the description in the agreement in no respect differs from the line as understood and recognized by the parties themselves and neighboring rancheros.

On the twentieth of January, 1844, Soto addressed a petition to the Governor, setting forth that the concession of the tract which he occupies, called San Lorenzo, expresses to have an extension of one sitio (square league) a little more or less; that the overplus which it may have towards the beach may be half a sitio, which he begs may be conceded to him, as united with the other it would be of much benefit to him." On this petition the Secretary reports that there is no objection to granting it, but that the petitioner must subject himself to the limits which his first title calls for, and to the agreement celebrated with Don Carlos Castro. On receiving this report the Governor acceded to the petition in the following words: "In conformity with the foregoing, Micheltorena,"—

It is objected that this was not a valid grant of the sobrante or overplus. But in the first place, it appears from the archives that the same formalities were rarely if ever observed in relinquishing a sobrante to the grantee, within the general limits of whose grant it was found, as were deemed necessary in making an original concession, or a grant of a sobrante to a stranger. The grant of the sobrante to him within whose limits it was found, was little more than a waiver or release of the condition of the original grant, which restricted him to a specific quantity, and the original grant (that condition being struck out) would by its terms convey the whole land within the limits designated. At all events, there can be no doubt in this case that the Governor intended to accede to the petition, and the land having under this grant, or promise to grant, been long occupied and enjoyed, and on all hands recognized as belonging to the grantee, the latter has in any view an equitable right which the United States are bound to respect.

The important question, however, in the case, is as to the location of the southern boundary. The tract included within the original limits is claimed by the appellees to be in the form of a square or parallelogram, and bounded on the east by the line between Castro and Soto as it was fixed by the agreement heretofore alluded to, on the south by the Alto and a line through the rodeo to the beach, on the west by the beach, and on the north by the San Lorenzo.

It is contended on the part of the United States, that neither the San Lorenzo nor the beach is a boundary of the tract, but that the southern line must be run from the point where the rodeo line or northern boundary strikes the beach, to the first ridge which the hills form. If such a line be drawn, it would form a diagonal to the square claimed by the appellees, and the tract would have a triangular shape, with the agreed line between Soto and Castro as its base on the east, and with its apex touching the beach at a mathematical point.

The language of the grant has already been quoted. The words which it is contended call for this location, are as follows: "And from this creek (El Alto) drawing a right line to pass by the rodeo to the beach, *and from this point* to the first ridge which the hills

form, excepting," etc. It is claimed, and with much apparent reason, that the last line must be drawn from the "*point*" where the rodeo here strikes the beach to the first cuchilla or ridge.

If the word "*punta*" had precisely the signification of the English word "*point*," as used in surveying, or if the grant had specified the "*point*" *where the rodeo line strikes the beach as the point from which a straight line* was to be drawn to the cuchilla for the southern boundary, the construction contended for would be unavoidable. But the language is "a straight line drawn to the beach, and from that point," etc. It does not in terms say "and from the point where said line strikes the beach;" it merely says "from that point," namely, from the beach. A reference to the beach generally by the term "*punta*," is certainly not in accordance with our use of language; but so far as I have been able to discover, such a construction of the term is not inadmissible in Spanish. If, however, there were no other guide to the intentions of the grantor, this construction might probably be deemed forced and unnatural.

There are other considerations, however, which I think remove any reasonable doubt as to its propriety.

In fixing the limits of land to be granted, both the law and usage of the Californians required them to adopt as nearly as possible a rectangular or square figure. This was not in all cases practicable, but in a country used almost exclusively for grazing, and where no fences were built, it became necessary to designate great natural objects as the boundaries of the tracts conceded. It seems therefore extremely improbable that in this instance the natural and obvious boundary afforded by the shore of a great estuary should be wholly neglected, and the land should assume the form of a triangle, having only a mathematical point at its apex resting on the beach, while one of the sides should diagonally cross the centre of a large plain with no visible object throughout its length, except at its extremities, to determine its location. This is the more improbable as the whole of the neighboring land had been before, or was subsequently, granted, and the piece of land excluded by the diagonal line alluded to, if not embraced within the grant to Soto, has remained from some unexplained reason the only piece of ungranted land in the vicinity.

The original grant to Soto was for one league within the limits specified. He subsequently, as we have seen, obtained the sobrante of about half a league more. This was after the boundary between him and Castro had been fixed.

Taking then that boundary as determined, there is found within the limits as claimed by him about one square league and a half, precisely the quantity granted to him in the two grants. But if the diagonal line be drawn as proposed, he would have but about two-thirds of a league in all, leaving his sobrante grant wholly inoperative, for even his first grant of one league could not be satisfied out of the tract so limited. It is to be borne in mind that Soto did not petition for an augmentation or extension, but for a sobrante or overplus—the excess within the original boundaries over and above the quantity to which he was restricted. This excess he states to be about half a league, while he also mentions that his first grant was for one league.

If then the limits of the land as designated in his grant, after the Castro line was fixed, included less than a league as is now contended, the petition for a sobrante of half a league more within those limits was absurd. Had he or the Governor supposed that the quantity already granted could not be found within the limits of the tract, it is not to be supposed that one would have asked for and the other conceded half a league more within those limits. In such case he would have asked for, not a sobrante, but an augmentation, and would have obtained his additional quantity outside of and beyond his original boundaries. The fact that the land, according to the boundaries he contends for, is nearly exactly the quantity (one league and a half) granted to him, seems to me almost conclusive as to what he intended to ask for and the Governor to give.

The value of land to the former inhabitants of this country in a great degree depended upon the existence of abundant supplies of fresh water, or “agua dulce,” for cattle. The line proposed would not only form an acute angle at the beach, but would touch the San Lorenzo creek only at a single mathematical point, thus cutting off all access to that stream, and either depriving the rancho altogether of fresh water, or else affording it at the El Alto alone for a

short distance. The adjoining rancho at the south is bounded by the San Lorenzo, and it is improbable that in fixing the limits of a cattle rancho access to that stream should have been denied to Soto, when the land between his rancho and it was unoccupied and ungranted, and the Governor was willing on his mere suggestion to increase the quantity given him by an additional half league. If with these considerations in our minds we recur to the grant, its intention seems obvious. It does not profess to give the boundary lines except on one side of the tract, but "its limits." Its longitudinal limits are declared to be from the San Lorenzo to the Alto, and the rodeo line to the beach. Having thus determined its length, the grantor indicates its *breadth*, viz: from the beach to the first crest of the hills.

He does not mention any point in the crest of the hills, which would have been natural if he had intended to fix as a southern boundary an imaginary straight line drawn from the point where the rodeo line struck the beach to the crest; and the indefiniteness of this description, referring as it does to a line on the summit of a range of hills, rather than to a point on those hills, seems to show that the intention of the grantor was merely to fix the latitudinal limits of the tract, viz: the beach and the crest; rather than to describe a line as a precise boundary.

But all doubt on this subject is removed, if the *diseño* produced be received as the original on which the grant was made. It is shown beyond any reasonable doubt, that it was with the other title papers placed in the hands of eminent counsel in this city, in whose custody it has ever since remained. By some oversight it was not put in evidence before the Board, but A. M. Pico, Francisco Arce and G. Castro testify that it is either the identical map, or one exactly resembling that, which was handed to Pico when about to give judicial possession to Soto. This map is unusually rude, but the form of the tract is sufficiently indicated to show it to be a square or parallelogram, with the beach as its western boundary.

A further confirmation of these views is found in the report of Jimeno at the time of the dispute between the Governor and Castro. "It appears to him," he says "convenient to measure to Soto the league, more or less, which has been granted him from the-

beach to the 'lomas,' or hills, but always on the side of the arroyo del Alto, because those are the limits which have been marked out, and from these limits he should follow those of Don G. Castro."

He was thus, according to Jimeno, to have a league on the side of the Alto, from the beach to the hill and from the Alto to the San Lorenzo, following Castro's boundary. The sobrante, after measuring the league, would have lain between the beach and the San Lorenzo, and would have been, as the testimony shows; about half a league in extent if measured after the Castro line was determined, and it was precisely this sobrante of half a league which Soto asked for and obtained.

If to all this be added the fact that Soto himself always claimed, and was regarded by his neighbors as owning, the whole tract between the beach and the Castro line, and between the Alto and rodeo line and the San Lorenzo, the conclusion is irresistible that such are the true boundaries of the grant.

The Board confirmed the claim to the land within these boundaries, and I see no reason to reverse their decree.

ANDRES PICO, CLAIMING THE RANCHO MOQUELAMOS, APPELLANT, *vs.* THE UNITED STATES.

UNDER the ruling of the Supreme Court in Fremont's case, this claim is valid.

Claim for eleven leagues of land in Calaveras county, rejected by the Board, and appealed by the claimant.

STANLY & KING, for Appellant.

WILLIAM BLANDING, United States Attorney, for Appellees.

The claim in this case is founded on a grant made by Governor Pio Pico, June 6th, 1846, and which was approved by the Departmental Assembly June fifteenth, of the same year. The genuineness of the grant, and of the certificate of approval, is testified to by N. A. Den. No attempt has been made to contradict or im-

peach him ; nor is any doubt suggested as to the authenticity of the papers. A document is also produced from the archives purporting to be a communication from the Secretary of the Assembly, transmitting the title papers to the Secretary del Despacho, with the approval of the Assembly.

The claim was rejected by the Board for want of proof of occupation and cultivation. Additional testimony has been taken in this Court, from which it appears that in 1848 the grantee had some horses upon the land, and took possession of some improvements made upon it by C. M. Weber.

This evidence is of course wholly insufficient to show a fulfillment of the conditions. But if the grant and other papers be regarded as genuine, (and under the evidence we are compelled so to consider them) the grantee obtained a full and complete title from the former Government. The failure to perform conditions subsequent, though it might have exposed him to a denouncement of the land, did not until such a proceeding was had, forfeit it ; and his vested title remained unimpaired up to the change of sovereignty.

But even if in the case of a complete title we were authorized to declare the land forfeited where the grantee had so unreasonably delayed the performance of the conditions as to justify the presumption that he had abandoned his land, this case would not fall within the principle. The grant was issued about a month before the American flag was raised in this country ; the disorder incidental to the invasion of the country would naturally prevent any settlement in remote parts, and it seems unreasonable to say that any failure to perform conditions of a grant issued but a few months before the Mexican authority was finally subverted, justify the inference " that the grantee had abandoned his land during the existence of the former government, and is now seeking to resume it from its enhanced value. (*U. S. v. Fremont*, 17 How.)

The land granted is described as " eleven square leagues, bordering on the River Moquelamos, bordering on the north upon the southern shore of said river, on the east upon the adjacent ridge of mountains, on the south upon the land of Mr. Gulnac, and on the west by the extremes of the shore." There would seem to be no difficulty in identifying this tract.

This case was submitted many months ago, without argument or observation of any kind on either side.

It was rejected by the Board for nonfulfillment of the conditions. But if the grant be really genuine, the nonperformance cannot, under all the circumstances, divest the title which the claimant acquired by the grant of the Governor, approved by the Departmental Assembly.

No expediente containing the usual documents (petition, informes, order of concession, diseño, copy of the grant, etc.) has been produced. No diseño or map of the land has been exhibited. The only paper found in the archives is the communication of Botello, transmitting the title with the approval of the Departmental Assembly to the Secretary del Despacho, before alluded to.

The production, however, of the original title, authenticated by the testimony of an unimpeached and uncontradicted witness, leaves us no alternative but to regard it as genuine, and if the grant was duly made and approved, the title to the land passed to the grantee.

To any one acquainted with the facility and unscrupulousness with which, in this class of cases, frauds have been perpetrated and sustained by testimony apparently conclusive, a grant unsupported either by evidence from the archives, or by proof of occupation of the land, must appear suspicious. But even in such cases the Court is not at liberty in the face of the uncontradicted testimony of unimpeached witnesses to substitute its own suspicions for proofs. In the case at bar, however, a document is found in the archives, which affords the best if not the only moral evidence of the genuineness of the grant.

Under the proofs in this case, we do not feel warranted in pronouncing the title to be spurious and rejecting the claim.

A decree of confirmation must therefore be entered.

SEBASTIAN NUNEZ, CLAIMING THE RANCHO ORESTIMBA, APPELLANT, vs. THE UNITED STATES.

THIS claim is valid under the ruling of the Supreme Court in Fremont's case.

Claim for six leagues of land in Tuolumne county, rejected by the Board, and appealed by claimant.

STANLY & KING, for Appellant.

WILLIAM BLANDING, United States Attorney, for Appellees.

The claim in this case was rejected by the Board.

The grant was issued on the twenty-second of February, 1844; but no approval of the Departmental Assembly was obtained, nor was juridical possession given.

The authenticity of the grant seems sufficiently established. The original document is produced, and the expediente is found in the archives of the former Government. The confirmation of the claim is, however, opposed by the United States on the ground that the claimant, from the date of his grant until long after the acquisition of the country, neglected to comply with any of the conditions.

The grant was issued, as has been stated, in 1844. It clearly appears that from that time until about the year 1850, two years after the acquisition of the country, the claimant neither occupied, cultivated or took possession of the land conceded. No effort whatsoever on his part to perform the conditions appears to have been made, and the only explanation of the delay to be found in the evidence submitted to the Board, is contained in a single sentence of the deposition of Francisco Perez Pacheco, to the effect that there was no security in putting cattle on the rancho for several years after the grant.

The testimony of Jacinto Rodriguez and Benito Diaz has been taken in this Court, and is chiefly relied on as affording the necessary explanation of the omission of the claimant to fulfill the conditions. But their evidence is not very satisfactory.

The first of these witnesses states that he cannot tell certainly when the first settlement was made, but the land was taken posses-

sion of as soon as it was safe to do so on account of the savage state of the wild Indians. In reply to an inquiry as to his means of knowing these facts, he states that he used to go there to catch wild horses, and also as a soldier to pursue the Indians.

Benito Diaz testifies in nearly the same terms, that he does not know exactly when the first settlement was made, but that he knows possession was taken as soon as the wild state of the savage Indians permitted, and that the hostility of the Indians prevented possession from being taken. He adds that he knows these facts, because he was mining in the neighborhood, and frequently passed there; that he is forty-one years of age, and has lived in that neighborhood many years.

If by mining the witness means gold mining, then his knowledge of the country derived from that occupation could not have been extended further back than 1848 or 1849. But if he means some other kind of mining carried on before the conquest of the country, it is not explained why the claimant could not have cultivated his rancho with as much security as the witness carried on his own business of mining. If he has, as he states, resided many years in the vicinity, that fact would seem to show that the claimant might have done the like.

But another witness was produced before the Board whose testimony, however, is not alluded to in their opinion; probably for the reason that it was considered unworthy of credit.

Francisco Perez Pacheco testifies that the land has been occupied by the present claimant "for about two years. The deposition bears date May 4th, 1852. He also says that a house and corral have been on the land between two and three years. This witness is a colindante, and one to whom the Governor referred for information, and on whose report the grant was made. His means of knowledge must therefore have been as good as those of any other person.

José Abrego, however, ignorant apparently of the previous testimony of Pacheco, and with a zeal somewhat outstripping his discretion, does not hesitate to swear (March 3d, 1853) that "during the last eight years the land has been in the possession and occupation of the claimant; that he has used it principally for grazing

purposes ; constructed and occupied several small houses by himself and those in his employment ; has constructed several large corrals for the herding of cattle, and has cultivated portions of the land *during all that time.*" This witness does not seem to have been aware that the theory of the case on the part of the claimant was, not that he had shortly after his grant occupied, cultivated and stocked his rancho, and fully performed all the conditions, but that he had been prevented from doing so by Indian hostilities. Nor does he appear to have considered that the Court would be slow to believe that such extensive improvements could have been made, and the rancho stocked with cattle, rendering necessary the construction of "several large corrals," and the fact remain entirely unknown to the nearest neighbor of so enterprising a ranchero. The testimony of this witness suggests a painful doubt as to the reliability of much of the evidence taken in this class of cases, and perhaps justifies a regret that we are not authorized to exact in every instance evidence of occupation and cultivation under the former Government as the best, if not the only check upon forgeries and frauds, in cases where the archives contain no evidence of the grant.

Rejecting then the testimony of this witness as wholly unworthy of credit, the question recurs—has the claim been forfeited by neglect to perform the conditions ?

Under the view formerly taken by this Court, the grant of the Governor, issued before the approbation of the Assembly was obtained, was regarded as inchoate or imperfect, and as conveying of itself no title to the land. It was considered, however, that while the grantee had, on the faith of this imperfect title, fulfilled the conditions, and thus rendered to the Government the only consideration for the grant exacted by their laws or policy, he had, on showing that fact or a performance *cy-près*, or perhaps even an effort to perform, which had been frustrated by unforeseen obstacles, an equitable right to a confirmation.

It was not supposed by this Court that if by the grant an estate vested in the grantee, that that estate could be divested unless by a proceeding by way of denouncement under the former Government. It was considered, as observed by the Supreme Court in *The United States v. Fremont*, "that the grant subjects the lands

to be denounced by another, but that the conditions do not declare the land forfeited to the State on the failure of the grantee to perform them." When, therefore, no denouncement had taken place, it was not deemed competent for this Court to inquire into and declare forfeitures which might have accrued under the Mexican Government.

It was also considered by this Court that, inasmuch as the Assembly and Supreme Government had the right, at their discretion, to annul the grant, our Government had succeeded to that right; and was at liberty to exercise it unless under circumstances which would have made it inequitable in the former Government to have done so. If then, so radical a change as that which has since occurred had taken place in the value of the land, the condition of the country, and the policy and even duty of the Government, the Mexican authorities would clearly have been justified in withholding their approval, unless by the settlement and occupation of the land, on the faith of the grant, they had already received the consideration for it. The equitable obligations which were binding on them, are binding on us, but none others, and the substantial equity of the claimant was supposed to consist in the fact that he had received an imperfect or inchoate title, and had performed the conditions during the existence of the former Government.

Where, however, the grant was rendered complete by the approval of the Assembly, and the title of the Mexican nation had been finally divested, it was not considered that we could inquire into previous forfeitures, unless such as had been taken advantage of and declared by the former Government.

It is decided, however, by the Supreme Court, that by an unapproved grant a right or interest vested in the grantee, which remained in him unless forfeited or divested under the former Government.

Such forfeiture did not, however, accrue on those cases alone where a denouncement of the land was made. It also took place, and must be declared by this Court, wherever there has been unreasonable delay in performing the conditions, and such as to authorize the presumption of abandonment.

What delay is to be considered unreasonable, and as giving rise

to this presumption, the Court does not explicitly state ; nor does it perhaps admit of precise definition. It would seem more in accordance with the generous and benignant spirit with which the Supreme Court has viewed these cases, to hold that no delay shall be considered so unreasonable as to forfeit the land, unless such as would not have been excused by the former Government if the land had been denounced. The time assigned for the performance of the conditions was usually one year. But this rested wholly in the discretion of the Governor. By the usage of the country the excuses of the grantee for nonperformance were indulgently received, and even when the land was denounced as vacant a further time to fulfill the conditions was usually allowed, if the Government was satisfied that the grantee intended to occupy his land and had been unexpectedly prevented.

The delay which the Supreme Court regarded as working a forfeiture of the vested interest of the grantee, is evidently something more than such as would constitute a technical breach of the conditions. It must be such "unreasonable" delay as justifies the belief that in point of fact the grantee voluntarily abandoned his land.

But such an inference could hardly be drawn, unless his negligence was protracted and susceptible of no other explanation, or unless he had left the country, or obtained and settled upon some other grant, or had by some other unequivocal act or omission clearly indicated his intention to renounce and surrender his property.

When, therefore, the Court is called upon to declare that a grantee of land has voluntarily abandoned the rights he is admitted to have acquired, the question is not unattended with difficulty ; and perhaps the test already suggested may be found as safe as any other, viz : that he shall be deemed to have forfeited his lands only under such circumstances as would, under the laws and usages, have deprived him of it had it been denounced by another.

In the case at bar the grant was made in 1844. The grantee had, therefore, only two years and some months during the existence of the former Government, within which to perform the conditions. The political and other disturbances, which were reviewed

by the Supreme Court in Fremont's case, as excusing or accounting for Alvarado's neglect to perform, must have presented equal obstacles to the grantee in this case; and the hostility of the Indians in this case as in that, probably, though the fact is not very satisfactorily shown, increased the difficulty of effecting a settlement.

It is true that others appear to have settled upon neighboring ranchos. For the grant is bounded by the ranchos of two colonizantes, and Francisco Perez Pacheco, by the informe and his own deposition, is shown to have had a rancho in the vicinity. But a settlement might have been practicable to a wealthy man with numerous dependents, while a poor man might have found it impossible to occupy alone an extensive tract, separated from his nearest neighbor by a distance of several leagues.

I am inclined to think that if, under the circumstances of this case, the land had been denounced, the Mexican authorities would, under their laws and customs, have accepted the excuses of the grantee, and allowed him a "proroga" or extension of time; and the fact that no denouncement was made is of some weight, as showing that no one else offered or found it practicable to fulfill the conditions.

I have felt much hesitation and difficulty in arriving at a conclusion in this case.

But assuming as I am bound to do that the grantee acquired a vested interest by his grant, I have not felt authorized to say that the circumstances show that he voluntarily abandoned or surrendered his rights during the existence of the former Government.

What circumstances the Supreme Court may hereafter regard as authorizing the presumption of abandonment, we cannot now say. But it has seemed to me that they should be strong and unequivocal before we can declare that a right of property once vested in a grantee of the former Government has been forfeited or lost by an abandonment of it.

United States v. Rose et al.

THE UNITED STATES, APPELLANTS, *vs.* JOHN ROSE *et al.*, CLAIMING THE RANCHO DE YUBA.

THE validity of claims under the Sutter General Title affirmed in Hensley's case No. 33.

Claim for six leagues of land in Yuba county, confirmed by the Board, and appealed by the United States.

WILLIAM BLANDING, United States Attorney, for Appellants.

THORNTON & WILLIAMS, for Appellees.

The claim in this case is founded on what is known as the "general title" of Micheltorena. It has already, after full consideration, been determined in this Court that that grant was sufficient to convey a valid title to those in whose favor it issued. The only points now open to controversy in this case are therefore: 1. Whether the alleged grantee was one of those persons for whose benefit the grant was made. 2. Has the right (if any) acquired by him been forfeited by such unreasonable neglect to perform the conditions of occupation and cultivation as to authorize the presumption that he had abandoned his land.

1st. Was he one of the grantees under the original title.

The grant of Micheltorena bears date Dec. 22d, 1844. It recites, "that the Supreme Government not being able, on account of other occupations, to extend one by one the respective titles to all the citizens who have petitioned for lands with favorable reports from Señor Don A. Sutter, by these letters grants unto them and their families the lands described in their petitions and diseños to all and each one who has obtained the favorable report of Señor Sutter, without any one being able to question their ownership; a copy of this given to them hereafter by Señor Sutter serving them as a formal title, with which they shall present themselves to this Government for the purpose of delivering to them the title in due form and upon paper of the corresponding seal. And for the testimony thereof at all times, I give this present document, which

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shall be acknowledged and respected by all the civil and military authorities of the Mexican nation in this and all other departments.

(Signed.) "Micheltorena."

It having been decided that this grant passed a title to the persons therein referred as fully and effectually as if they had individually been named in it or had received their separate titles, the only question that remains is, was the claimant one of those who had petitioned the Government, and had obtained a favorable report from Señor Sutter? Of this, the most satisfactory evidence would undoubtedly be the production of a copy of the grant delivered to him by Sutter in obedience to the direction contained in it. But this, though perhaps the best, is not the only evidence which could establish the fact that the claimant was one of the intended grantees. If he could show that he had petitioned for the land, and that he had obtained the favorable report of General Sutter, it would clearly be enough to establish his right under the grant, even though Sutter may have neglected or refused to give him the evidence of his title which he was directed to furnish. The fact, however, that such a copy was not delivered to the party, would be a circumstance requiring explanation; for it has not, as yet, been suggested to this Court that Sutter neglected or refused to comply with the directions of the general title in this respect, when applied to by any one entitled under it.

In the case at bar, it is alleged that a copy of the title was duly given to the grantee; that it, with other papers, was lost by him while fording the Sacramento river; that on being made acquainted with the loss, Captain Sutter furnished a second copy, which was sent by the grantee to Monterey for the purpose of obtaining the approval of the Assembly, but that he has never been able to recover it, or to discover what had been done with it.

General Sutter, who was sworn on the part of the claimants, testified that John Smith petitioned the Governor for six square leagues of land, accompanying his petition by a map drawn, as he understood, by John Bidwell. The expediente with the usual decree for information was acted upon by the witness, and a favorable report made before the twenty-second of December, 1844. The witness also stated that he remembered having given to Smith

a copy of the original title, as he was entitled to have it; that subsequently he was informed and fully satisfied that in the spring of 1845, Smith lost all his documentary evidence or expediente in this case.

On his cross-examination he stated that after the petition came back from Monterey for his report he examined it in the presence of Bidwell, who wrote it, and of Smith, the grantee.

Major Bidwell confirms the testimony of General Sutter, and states that he saw the latter deliver a copy of the general title to Smith; and that subsequently he prepared a petition to General Sutter, soliciting another copy of the general title, as the first had been lost with the accompanying documents; and that General Sutter knowing that fact, delivered a second copy as requested. The witness also states that the land claimed in this case was granted to Smith by the general title referred to; and he identifies a map as made by himself in 1844, on which the land now claimed is marked as the "Rancho de Yuba."

General Sutter was re-examined in this Court. His recollection when making his last deposition seems more uncertain and confused than when his testimony was first taken. He repeats, however, his former statement as to the facts we are considering, viz: that Smith applied for the land; that the petition was referred to him; that he reported favorably upon it; that he delivered a copy of the general title to Smith; and that on its being proved to him "by many persons" that the first copy was lost, he gave or sent to Smith a second copy.

When asked how the loss was proved, he replied: "When a man like Bidwell told me anything, I believed it like the Gospel."

There can, I think, be no room for doubt under this testimony that Smith was one of those in whose favor the general title issued. His own testimony has been taken to prove the loss of the copy delivered to him and of the other documents. It is objected that it has since appeared that he has or pretends to some interest in the land, notwithstanding his conveyance to the present claimants. A bill of complaint is exhibited in which he prays that that sale may be set aside on the ground of fraud. The objection was not taken, however, at the time he testified, and besides, his own evidence as

to the loss of the documents would clearly be admissible, notwithstanding his interest.

His account is corroborated by the testimony of Sutter and Bidwell—witnesses of whom it may be observed that they are of a class, unfortunately too small, upon whose veracity this Court can place reliance.

It is not to be forgotten that the production of the copy of the general title is only important as showing that the party producing it was one of those intended to be benefited by the original. The interest passed by virtue of the original; and it passed to those persons who are referred to in it, though they are not named.

The only inquiry therefore is, was the claimant one of those persons? To establish this, no secondary evidence of the contents of the copy delivered to him is necessary. It is the *fact* that he was one of those in whose favor Sutter had reported which fixes his rights, and identifies him as one of the intended grantees.

That he did petition for the land; that Sutter reported favorably on his petition; that a copy of the original grant was given to him at the time, as one of the grantees, is clearly proved. His rights are, therefore, established, whatever may have become of the copy delivered to him—that copy being in no sense the instrument which conveyed the title, but only a means of showing by its production what other testimony has sufficiently proved.

But in order to ascertain what lands were granted, reference must be had to his petition; for it was the tract therein solicited which the Governor granted, and secondary evidence of the contents of the petition must, of course, in the absence of the original, be resorted to.

That the petition and accompanying documents were lost is, I think, sufficiently shown, not only by Smith's own testimony, but by that of Sutter and Bidwell, and still more conclusively by the fact that a second copy of the grant was delivered to the grantee—a proceeding absurd and without a motive, unless the first had been lost. It is suggested that due diligence has not been shown to obtain this second copy. But the only document as to which secondary evidence is important is the petition, and of this it does not appear that any copy was made.

The petition not being produced, the fact that the land now claimed was that solicited in it must be established by other testimony.

Major Bidwell testifies that he is well acquainted with the land, and he states its boundaries, and that it was granted to Smith by Micheltorena. A map is also identified by him as made by himself in 1844, on which the land now claimed is delineated under the name of "Rancho de Yuba."

General Sutter testifies that John Smith petitioned Governor Micheltorena for six leagues of land, accompanying his petition with a map or *diseño*, drawn, as witness understood, by Major Bidwell. Smith (the witness says) was in possession by his authority of this land—the boundaries of which correspond with the map referred to in the deposition of Bidwell. The witness on his cross-examination says that he examined the original *diseño* when the expediente was referred to him for his "*informe*;" that he was well acquainted with the ground, and that the boundaries as testified to by Major Bidwell, and delineated on the map referred to by him, correspond with those on the *diseño* which accompanied the petition.

When subsequently examined, the witness declared his inability to specify the boundaries of the land petitioned for, or to give a particular description of the *diseño* which accompanied the petition. He even states that he cannot recollect the quantity of land applied for by Smith.

It is not very easy to reconcile the accurate recollection exhibited in the first deposition of General Sutter with the confusion and forgetfulness shown in his last. Perhaps the lapse of time may in some degree have impaired his memory, though it is strange that two years should have so completely obliterated the recollection of events which in 1855 he so freshly remembered.

If we were compelled to rely upon General Sutter's testimony alone to ascertain the land which Smith petitioned for, and which was granted to him, we should, perhaps, be obliged to reject the claim.

The testimony of Bidwell, however, is explicit, and identifies the land granted to Smith.

Smith himself swears that he petitioned for and obtained the

Rancho de Yuba ; and that he claimed to own it is evident from the testimony introduced on the part of the United States ; for in 1848, he sold out to Nye and Foster, from whom the claimants derive title, his interest in the land now in controversy. The fact that so soon after the acquisition of the country he claimed to own this land under the title derived from Micheltorena, shows that the claim now urged is no recent invention, and corroborates the testimony of Sutter and Bidwell that the tract now claimed was that originally petitioned for and granted to him.

Upon the whole, I think it sufficiently proved, not only that Smith was one of the intended grantees under the general title, but that the land petitioned for by him, and by that instrument granted, was the Rancho de Yuba claimed in this suit.

The next inquiry is, was the vested interest so acquired forfeited during the existence of the former Government by such unreasonable neglect to perform the conditions as to justify the presumption that the grantee had abandoned his grant.

The evidence shows that before obtaining his grant, Smith had purchased from General Sutter one league of land, and had built a house upon it. The land he solicited immediately adjoined this tract, and it would seem from the proofs, that the second house built by Smith was also within the limits of his purchase, and not within those of his grant. This is certainly the case if the boundaries of Sutter's grant be located according to the preliminary survey made of it.

It may be admitted, therefore, that Smith never built a house within the limits of the six leagues granted ; but that he resided in a house built on the land purchased by him which immediately adjoined it. His cattle, however, ranged over the large tract, and he appears to have claimed and been recognized as possessing both tracts, until 1848, when he sold out to Nye and Foster.

It seems to me that this occupation was sufficient to satisfy the Mexican law. When a sobrante or surplus was granted to one who had previously obtained a grant of a portion of the land inclosed within natural boundaries, it was not expected that he should build a second house and reside on both tracts at once. So also where an augmentation or additional grant was made, the additional

an augmentation or additional grant was made, the additional quantity was added to that first granted, and both formed one whole.

If Smith then was residing and had built a house upon the one league purchased, and subsequently obtained from the Government an additional six leagues immediately adjoining it, he must be considered from that time as occupying the whole seven leagues, or the whole tract, upon a portion of which he continued to reside.

Certainly, such an occupation repels all idea that he had abandoned his grant. And it is only when the neglect to fulfill the conditions has been so unreasonable as to justify the presumption of abandonment, that we are authorized, under the principles laid down by the Supreme Court, to declare his claim forfeited.

It is further objected that the general title only grants to those *citizens* who have obtained the favorable report of General Sutter the lands solicited by them respectively; and that it is not shown that Smith was a citizen.

It appears that Smith is a native of Canada or New Brunswick; that he came to this country in 1835.

He swears himself that he was naturalized, but he does not produce his papers or give secondary evidence of their contents. They were lost with the other documents. It appears, however, that General Sutter delivered to him a copy of the title as one of those referred to in it. General Sutter was at that time Military Commandant of the Frontier, and exercised civil jurisdiction in that portion of Upper California. He was directed to deliver a copy of the title to a certain class of persons described in it. It is to be presumed that as an officer of the Government he did his duty, and acted within the limits of his authority. The fact, therefore, that Smith was recognized by him as one of those entitled to receive a copy of the grant, and that he delivered a copy to him as such, should, when corroborated by the oath of Smith himself, be received as sufficient to bring him within the class of persons in whose favor the grant issued.

The claim was confirmed by the Board, and I see no reason to reverse their decision.

THE UNITED STATES, APPELLANTS, *vs.* THE HEIRS OF
JOSE JOAQUIN ESTUDILLO, CLAIMING THE RANCHO
SAN LEANDRO.

WHERE the description contained in a grant, and the circumstances of the case, justify the belief that the intention was to grant all the land included within the boundaries named, then the words "poco mas ó menos" (a little more or less) must be construed as operative to pass to the grantee such fractional part of a league as may be found in excess of the quantity named in the grant.

Claim for one league of land in Alameda county, confirmed by the Board, and appealed by the United States.

WILLIAM BLANDING, United States Attorney, for Appellants.

THORNTON & WILLIAMS, for Appellees.

This claim was confirmed by the Board. It has recently undergone so full an examination in the ejectment suit brought in the Circuit Court, that I conceive it unnecessary to consider at length the testimony by which its genuineness is established. On the whole, after an attentive consideration of the additional testimony taken in this court, I incline to the belief that the grant issued as alleged by the claimant, although the nonproduction of the original grant and the fact that the order of concession is unsigned, leaves some room for doubt on this point.

It appears to me evident that the grantor intended to fix as the limits of the tract, the San Leandro, the sea and the diramaderos or overflowings of the springs. On the fourth side the boundary is designated as "a straight line from the diramaderos to the San Lorenzo, but so drawn as not to include the Indian cultivations." This line was, from the terms of the grant, to be a straight line, and should be drawn to the nearest point of the San Lorenzo to which it can be drawn without including the Indian cultivations; whether that line will thus take a southerly or a south-westerly direction will depend upon the extent of the Indian cultivations. Such has seemed to me, after much consideration, the true construction of the grant and diseño in this case, and such was the

view taken of it by the Circuit Court and by the Board of Commissioners.

But the difficult question in the case is that presented by the words "poco mas ó menos." It is certainly not easy to say what precise effect they were intended to have. Some operation should clearly be given them, unless they are so hopelessly vague and uncertain as to admit of no definite construction.

The grant conveys to the grantee "a part of the land known as San Leandro," and proceeds to define the boundaries with more than ordinary precision. The third condition states the land of which donation is made to be one square league, a little more or less, (poco mas ó menos) directs it to be measured, and reserves the surplus. The quantity of land contained within the boundaries will probably exceed one league by a considerable fraction.

Ought then the words "poco mas ó menos" to be rejected for uncertainty, and the grantee in this and all similar cases to be limited to the precise quantity of one league, no matter how small the gore or strip of land in excess may on measurement be found to be; or are we at liberty to construe the words referred to as embracing such fractional part of a league as may be found within the boundaries? The question is one of intention on the part of the grantor. In most instances the description in these grants was obviously intended to designate the tract out of which the granted quantity was to be taken, rather than to indicate the limits of the land granted.

In some cases, on the other hand, the boundaries are indicated with much precision, and the mention of quantity is obviously rather a conjectural estimate of its extent than intended as a limitation of the grant to the quantity mentioned; and yet in these cases the *sobrante* clause is added, apparently from habit, or because no pains were taken to vary the form of the grant according to the circumstances of particular cases.

The English equivalent for the words "un sitio, poco mas ó menos," would perhaps be given by the phrase "*about* one square league." Where under our system a grant specifies the boundaries of the land which it conveys in absolute terms, the subsequent mention of its extent as of "about one square league," with a reservation of the surplus, would probably be inoperative. It may

plausibly be argued, that if any part of the grant is rejected for uncertainty, the whole phrase (*un sitio, poco mas ó menos*) should be rejected, and not merely the indefinite words which terminate it. Certainly, if the expression were in English "about one league," the Court would hardly strike out the word "about" and construe the words "one league" as indicating that precise quantity—not to be exceeded by a single foot.

It has on the whole seemed to me that where the grant describes in its granting clause a particular piece of land, with definite or ascertainable boundaries, and the condition mentions the extent of the land so granted as of so many leagues, "more or less," the latter expression should be so construed as to embrace such additional fractional part of a league as may on measurement be found within the boundaries. There is certainly some difficulty in determining what quantity shall by this clause be deemed to pass. To allow under a grant of one league, more or less, three or four or five leagues to pass, would evidently be unreasonable, unless the condition be rejected in toto.

It would seem equally unreasonable to restrict the grantee to the precise quantity of one league as determined by an accurate survey, and to take from him a gore of land, perhaps a few yards in width, along one side of his rancho, and which is clearly embraced within the boundaries as mentioned in his grant.

I think the words should be allowed a reasonable operation, and that where the description contained in the grant, the previous proceedings, and the circumstances of the case justify the belief that the grantor's general intention was to grant all the land within the boundaries, the words "*poco mas ó menos*" should be construed to embrace such fractional part of a league as might be found to be in excess of the specified quantity.

The Circuit Court and the Board were of opinion that in the grant under consideration, the excess, such as it was shown to be, passed to the grantee, and in that opinion I concur.

A decree must be entered affirming the decision of the Board.

United States v. Executors of Hartnell.

THE UNITED STATES, APPELLANTS, *vs.* EXECUTORS OF
W. E. P. HARTNELL, DECEASED, CLAIMING THE RANCHO
COSUMNES.

UNDER the laws of Mexico, more than eleven leagues of land could not be granted in colonization to any one person.

Claim for eleven leagues of land in Sacramento county, confirmed by the Board for six leagues, and appealed by the United States.

WILLIAM BLANDING, United States Attorney, for Appellants.

HALLECK, PEACHY & BILLINGS, for Appellees.

The land claimed by the appellees before the Land Commission was a tract of five leagues in Santa Barbara county, called "Todos Santos y San Antonio," and a tract of eleven leagues on the river Cosumnes, in Sacramento county.

The Commissioners confirmed to the claimant the five league tract and six leagues of the Cosumnes tract, making eleven leagues in all.

From this decision the United States appeal. It is insisted on the part of the appellees, that the claim to the whole of the Cosumnes tract should be confirmed, and that the limitation of it to six leagues is erroneous. The transcript as filed in this Court embraces both claims. The Todos Santos tract is situated in the southern district; over that part of the case the Court has therefore no jurisdiction.

It appears from the proofs that the grant for the Todos Santos tract was duly issued; that it was occupied and cultivated by the grantee, and that judicial possession of it was formally given.

It was not, however, approved by the Assembly, for reasons which will presently be stated.

The grant of the Todos Santos tract is dated Aug. 28th, 1841.

On the third of November, 1844, Hartnell obtained another grant from Micheltorena of eleven leagues on the Cosumnes. The genuineness of both these grants is not disputed.

On the sixteenth of March, 1846, these two concessions were referred by the Assembly to the committee on vacant lands. On the thirteenth of April following the committee reported "that as the decree of concession for the Todos Santos tract does not express the number of leagues granted, and as another expediente has been presented for approval for eleven leagues on Cosumnes river, granted to the same party Nov. 3d, 1844, that the two expedientes be united, and as the law gives eleven leagues as the maximum, that the petitioner be required to present his title for the first named tract, in order that the number of leagues may be ascertained, and that the party may then apply for such eleven leagues in the two tracts as may suit him best."

This report was approved by the Departmental Assembly on the twenty-second of April of the same year. The directions given to the petitioner were not complied with—not, as suggested by his counsel, because it was the Governor's duty to submit the expedientes for approval, for the report expressly requires the *petitioner* to present his title for the Todos Santos tract, but probably because residing at a distance he had no opportunity, in the few months which intervened before the subversion of the Mexican authority, to comply with or perhaps even learn the order which the Assembly had made. At all events no further action was had in the Assembly on either grant.

The grantee appears to have occupied his land by placing a tenant in possession of it, by whom it was cultivated soon after the date of the grant. He has also conveyed to various persons portions of it. There is nothing in the case from which any intention to abandon the land can be presumed, unless his omission to present his grant for Todos Santos to the Assembly, as required, can be so construed. But such a construction is obviously inadmissible.

The only question in the case is as to the extent to which the Cosumnes title should be confirmed.

It is urged that the limitation of the quantity of land which the Governor was authorized to grant did not apply to grants made to Mexican citizens; and secondly, that the full powers given to Micheltorena enabled him to disregard the restriction.

It is unnecessary to enter into a discussion of these points, for

United States v. Executors of Hartnell.

the Supreme Court has in unmistakable language recognized the restriction of the powers of the Governor.

In *The United States v. Larkin*, (18 How. 561) the Court in speaking of the decree of the Court below limiting the quantity of land to eleven leagues, say: "Especially should this construction be given, as the power of the Governor to grant to a single person was limited so as not to exceed this quantity, according to the twelfth section of the decree of the Mexican Congress of August, 1824."

The grant in that case was made by Gov. Micheltorena, November 4th, 1844, only one day after that under consideration. Independently of this decision of the Supreme Court, I should have no difficulty in reaching the same conclusion. It is urged that Santa Anna was at that time in possession of absolute legislative and executive authority, and that his delegation of all his power to Micheltorena conferred upon the latter authority superior to that of any existing law.

But the power of the most absolute despot in civilized nations is rather the power to make, alter or abrogate the laws, than to violate them. So long as the law remains unrepealed the sovereign is bound by it, and the legality of any act done by him must be tested by the laws as they exist. Such I understand to have been the theory of the Spanish juriconsults, and though the distinction in an absolute monarchy may be rather speculative than practical, it is of some importance when the inquiry relates to the power of a subordinate to whom the despot may in general terms have delegated his authority. That portion of the colonization laws which consisted of executive regulations, Micheltorena, under his plenary powers, might perhaps have disregarded. But the decree of the Mexican Congress, from which the President himself derived his authority to make regulations on the subject, must be deemed to have remained in force until expressly abrogated. The action of Micheltorena himself in submitting these grants to the Assembly is an unmistakable proof that he considered the colonization laws were to be observed by him in form and in substance, and the refusal of the Assembly to approve a grant for more than eleven leagues is an emphatic declaration of what was the received construction of

the law, and their idea of the Governor's authority. There is no reason to suppose that the refusal of the Assembly to approve for the reason assigned was by any one considered an erroneous construction of the law, or an unwarrantable encroachment on the extraordinary powers of the Governor.

It is zealously urged by the counsel for the appellees, that this is no longer an open question in this Court, and that grants have already been confirmed in this Court for a greater quantity than eleven leagues. Such may possibly be the fact. It is enough, however, to say that in the case alluded to (that of Petaluma) the decision of the Board was affirmed by this Court without examination, and on the statement of the District Attorney in open Court, that no valid objection to a confirmation existed. It is also to be observed that in that case the grant was for ten leagues, and that the additional five leagues were acquired by purchase, the grantee having paid to the Government a considerable sum of money for the land.

I am not aware that until the present case it has been claimed in this Court that Gov. Micheltorena or any other Governor had authority to make a gratuitous concession of more than eleven leagues of land to a single individual. Certainly, no ruling to that effect has been made, and even if it had been, the construction given to the law by the Departmental Assembly and the Supreme Court would expose its incorrectness.

It appears from the record that Hartnell had, before the grant issued for the Cosumnes tract, obtained a grant for two-thirds of a league in a place called Alisal. This land, however, he seems to have purchased, and the grant was probably obtained to strengthen the title previously acquired. The Commissioners do not appear to have noticed this grant, but confirmed the claim for the five leagues in Todos Santos and six leagues in Cosumnes. I do not think the proof sufficiently clear as to the Alisal tract to authorize the deduction of the quantity mentioned in that grant from the six leagues of Cosumnes confirmed to the appellees.

A decree must be entered confirming the claim to Cosumnes to the extent of six leagues.

THE UNITED STATES, APPELLANTS, *vs.* CHARLES FOS-
SAT, CLAIMING THE RANCHO LOS CAPITANCILLOS.

THE genuineness of the grant in this case not disputed. The ruling in Estudillo's case, that the words "poco mas ó menos" are operative for such fractional parts of a league as may be in excess of the quantity named in the grant, re-affirmed. The southern boundary of the land granted to Justo Larios declared to be the main Sierra, and not the low hills or lomas bajas.

Claim for one league of land in Santa Clara county, confirmed by the Board, and appealed by the United States.

P. DELLA TORRE, United States Attorney, for Appellants.

A. P. CRITTENDEN, for Appellee.

At the hearing of this case, the Court entertaining no doubt upon the points presented, expressed verbally its opinion. At the suggestion of the attorney for the claimants, I have committed to writing the substance of the views then expressed.

The genuineness of the grant was not disputed. The only questions discussed were as to the extent and the boundaries of the tract granted.

The land is described in the grant as known by the name of the Capitancillos, bounded by the Sierra, by the Arroyo Seco on the side of the Establishment of Santa Clara, and by the rancho of citizen José R. Berreyesa, which has for a boundary a line running from the junction of the Arroyo Seco and Arroyo de los Alamitos southward to the Sierra, passing by the eastern "falda" of the small hill situated in the center of the Cañada.

The third condition states that the land herein referred to is one league de ganado mayor, a little more or less, as is explained by the map accompanying the expediente.

It had been urged to the Court in previous cases, that where the conditions of a grant mentioned the tract referred to as of so many leagues "a little more or less," the latter words should be rejected for uncertainty, and the quantity of land should be limited to the number of leagues mentioned. But this construction the Court had refused to adopt. It was considered that the inquiry in these as

in other grants was as to the *intention* of the grantor, and that the Court could not attribute to him an intention to grant so many leagues and *no* more, in the face of his declaration that he intended to grant the specified quantity, a "little more or less."

It is not necessary now to recapitulate the various considerations upon which the Court determined the question. It was of opinion that where the boundaries of the land granted were designated with reasonable certainty, the mention in the condition of a certain number of leagues, "more or less," as the quantity of land granted, should be considered as indicating an intention to grant the whole tract within the boundaries, provided the excess over and above the number of leagues mentioned was not so great as to indicate gross error or fraud; and that, as under the former Government the ordinary unit of measurement was a league, the term "more or less" should at least be construed to embrace such fractional parts of a league as might be found within the boundaries, if no greater excess than some fraction of a league were found within them. It may deserve consideration whether such a mention of quantity should not be considered in all cases, except those of gross error or fraud, rather a conjectural estimate of the quantity previously granted than as a limitation of that quantity, and whether the grant should not be deemed, except in the cases referred to, a grant by metes and bounds, or by boundaries.

It is enough, however, for the present to say that this Court has decided that under the words "more or less" such fractional part of a league over and above the number of leagues mentioned will pass, as may be contained within the boundaries described in the grant. This point was not discussed at the hearing of this case, the District Attorney being aware that it had already been passed upon by the Court.

The questions more particularly debated were—1st, whether this Court had any power by its decree to designate the boundaries of the tract confirmed to the claimant, or whether the language of the grant must be adopted, leaving the location of the boundaries and the identification of the natural objects called for to the Surveyor General. Secondly, what were the boundaries called for.

As to the first point I entertain no doubt. The Court is not, it is

true, authorized by the act to designate the "extent, locality and boundaries" of the granted land. This, in the absence of a preliminary survey, would be impracticable; but the determination of the *validity* of a claim to a particular tract of land necessarily involves an inquiry, to a certain degree, into the boundaries or the extent of the tract, the validity of the title to which is in question.

If the Court decrees that the title of the claimant is valid to a piece of land, it should by its decree identify and designate that land, so that it may be known to what the claim is valid. But surely it is not only its right but its duty to construe by the aid of evidence and argument any ambiguity or uncertainty apparent on the face of the grant itself, and where the grant, as in this case, speaks of a "Sierra" as a boundary, to ascertain and declare what Sierra is meant, and to express in its decree that it confirms a claim to a tract bounded by a particular and specified Sierra, and not by such Sierra as the Surveyor General may consider to have been intended.

The Supreme Court, in many of the cases brought up on appeal from this Court, have entered fully and freely into the question of boundaries, and appear to have considered their determination not only as within their jurisdiction, but as an appropriate and important part of their duties.

The remaining question to be considered is, what boundaries were intended by the grantor. The only one of those mentioned, the identity of which was debated, is the southern boundary mentioned in the grant as "the Sierra." The point to be determined is—what natural object was meant.

The evidence shows that the tract called Capitancillos is a valley lying along an arroyo or brook; on the southerly side extends a range of low hills, running from east to west. At their eastern extremity, where they are intersected by the Alamitos, these hills attain considerable elevation, but they decline in height towards the west, where they reach and are turned by the arroyo Seco. Behind this ridge or cuchilla the main Sierra or mountain chain raises itself to a great height, and is separated from the ridge of "lomas bajas," already spoken of, by the two streams mentioned. These streams rise at an inconsiderable distance from each other,

and flowing in opposite directions between the Sierra and the lomas bajas, they turn the eastern and western extremities of the latter and debouch into the plain. Upon the slopes of the ridge of low hills, as well towards the valley on the north as towards the streams behind it on the south, the best or most permanent grazing is to be found, and on this ridge are situated the valuable quicksilver mines, the existence of which gives to this inquiry its chief importance.

The question is—Is the Sierra mentioned in the grant the mountain chain to the south of the lomas bajas, or is it the lomas bajas themselves?

If there were no other means of determining this question, the word "Sierra" itself, by its necessary import as well as from the evidence which shows to which of these natural objects it was in fact applied, would leave little room for doubt. The natural and ordinary meaning of the term clearly points us to a great mountain chain, rather than to a ridge of low hills parallel to but separated from it. The evidence is conclusive that such *was* the meaning and use of the word with reference to these particular natural objects, and that while the mountain range was known as the Sierra, the ridge of low hills was known as the "cuchilla la mina de Luis Chaboya," or as the lomas bajas.

The expediente furnishes more conclusive evidence on this point. The tract is described, as we have seen, as of one "league, a little more or less, as is explained by the map accompanying the expediente." On this map is found rudely delineated a mountain range, and this mountain range is inscribed "Sierra del Encino," or "of the oak tree." The Sierra mentioned in the grant is therefore evidently the "Sierra del Encino," for that is the only Sierra delineated on the map.

The evidence discloses that there is on the main Sierra or mountain chain an oak tree of extraordinary proportions and striking appearance. Situated on a spur or ridge of the mountain, it is a conspicuous natural object from all parts of the valley and for many miles around. The photograph exhibited in Court shows that its size and isolated situation are such as to strike the eye and arrest the attention of the most casual observer. Few who reside

in that part of the country but are acquainted with the existence and situation of this tree, and it appears in the speech of many of the former inhabitants to have given a name to the Sierra on which it is situated. If then, as appears indisputable, the Sierra referred to in the grant be the "Sierra del Encino," the Sierra on which this oak tree is situated must be the one.

A still further confirmation of these views is derived from the map accompanying the expediente of Berreyesa.

The grant we are considering mentions as the eastern boundary of the tract granted, "the rancho of citizen José R. Berreyesa, *which has* for a boundary a line running from the junction of the arroyo Seco and arroyo de los Alamitos southward to the Sierra," etc. This line thus dividing the two ranchos had previously been a subject of dispute between the colindantes or neighboring proprietors. It was finally settled, however, by the Government before the grants were issued, and a dotted line, indicating the boundary agreed upon by the parties and fixed by the Government, was made on the *diseño* of Berreyesa. This line is described in both grants in the same terms. That under consideration refers, as we have seen, to the rancho of Berreyesa as the boundary of the rancho of Justo Larios, and then describes the line as the boundary of Berreyesa's tract. The same inverted mode of description is used in the grant to Berreyesa. To determine what the boundary of Justo Larios' land is, we must, in literal compliance with the terms of the grant, ascertain the boundary of Berreyesa's land, and in ascertaining the latter we resort to the map on which the dotted line is marked. In Berreyesa's grant, as in that of Justo Larios, the line is described as extending to the "Sierra," and as the ranchos were coterminous and the eastern boundary of one is the western boundary of the other, the "Sierra" to which their common line of division extends must be the same. On recurring, then, to Berreyesa's map and the dotted line alluded to, all doubt is dissipated as to the range of mountains referred to.

On this map two ranges of hills or mountains are rudely but unmistakably delineated. They are separated by a broad valley—far broader than that actually existing, but indicating by its exaggerated delineation the discrimination in the grantor's mind between

Palmer et al. v. United States.

the ridge of low hills and the Sierra, or mountain range behind it. The lower ridge is inscribed "Lomas Bajas," while the chain behind it and distinctly separated from it is inscribed "Sierra Azul," from the hue which the mountains assume at a distance.

The dotted line which by the grant is to terminate at the "Sierra," is produced *across* the "Lomas Bajas," across the valley beyond them, and terminates at the "Sierra Azul."

There can thus be no room for doubt that the Sierra intended was the main sierra or mountain range, and as the western line of the land of Berreyesa extended to this range, the land of Justo Larios, which has the same line described in the same terms as its eastern boundary, must have the same extent. The Sierra referred to in Justo Larios' grant must necessarily be the same as that referred to in the grant of Berreyesa, and as to the latter, there can be, as we have seen, no question.

Other considerations in support of this view might be urged. I think it unnecessary. There seems to me no room for doubt that the Sierra referred to in the grant was the main Sierra described by the witnesses, and not the range of low hills which has been attempted to be assigned as a boundary.

JOSEPH C. PALMER ET AL., CLAIMING THE RANCHO PUNTA
DE LOBOS, APPELLANTS, *vs.* THE UNITED STATES.

IN cases pending under the Act of March 3d, 1851, some indulgence should be extended by the Court to the District Attorney, in order that he may have a reasonable time in which to prepare them for trial.

This was a motion by claimants, that the case be set for hearing at an early day.

E. L. GOOLD, for the motion.

P. DELLA TORRE, United States Attorney, opposing.

A motion is made to set this case for a hearing at an early day, which is opposed by the District Attorney.

The transcript was filed in this Court on the thirtieth of January, 1856. The cause was placed on the calendar, but was not reached until April 13th, 1857, when it was set for a hearing on the sixth of May ensuing. On the sixth of May, the Court was not in session, and the rule requiring the examination in Court of witnesses in cases where fraud was alleged having been suspended, depositions were taken on various days up to May 15th, when the claimant's attorney gave notice to the District Attorney of his readiness to submit the case. On Monday, May 18th, the District Attorney obtained from the Court one week further time to take testimony.

On Monday the twenty-fifth of May, the District Attorney, desiring a further postponement of the case, a week's time was granted by the Court.

On Monday, June 1st, the claimant's counsel moved the hearing of the cause; but having, from a misconception of the practice, omitted to prove certain mesne conveyances before the commissioners, though the originals duly acknowledged were produced in Court, the cause was again, at the instance of the District Attorney, postponed for two weeks.

On the fifteenth of June, the claimant's counsel again moved the hearing of the cause. This motion was opposed by the District Attorney. No affidavit, however, was presented by him, nor statement of any testimony he expected to procure. No names of witnesses were given; but the importance of the case was referred to, and the hope expressed that some testimony to establish the fraud suggested might be obtained in the course of a few weeks.

The Court, desirous of affording every facility for the ascertainment of the real merits of the case, again postponed the cause; and as the Judge was about to be absent from the city, six weeks were allowed, and the cause fixed for July 27th.

On the twenty-seventh of July, the hearing was again moved by the claimant's counsel, and a further postponement was asked by the District Attorney. On being inquired of by the Court, he declined to specify any time at which he would be ready to submit the case, but intimated that he required a delay of some months.

He did not give the Court to understand that he was in possession of any facts susceptible of proof, or that he knew of any witnesses by whom the case, on the part of the United States, could be made out. He contended, however, that the cause had lost its place on the calendar, and should be postponed until regularly called in its order, and he expressed the hope that by that time he would be able to procure some testimony on the part of the Government. No evidence, either oral or documentary, has been taken or filed on the part of the United States since the cause has been pending in this Court, or within the last two years.

It will not be disputed that the intention of Congress was to secure the speedy settlement of land claims in this State.

It was accordingly provided by Sec. 9 of the Act of 1851, that after the service of the answer to the petition for a review of the decision of the Board, the cause should stand for trial at the next term of the Court thereafter, unless, on cause shown, the same should be continued by the Court.

I think the claimants have, under the circumstances of this case, an unquestionable right to have the case heard and disposed of. I shall, therefore, set it for hearing on Monday next, the tenth day of August—with liberty, however, to the District Attorney, on or before that day, to show cause for a continuance by affidavit, stating the facts intended to be proved, the names of the witnesses, the time within which they can be produced, and the reasons for their not having been heretofore examined.

I am aware that, in suffering the cause to be again postponed, even on the showing indicated, I may seem to be allowing too great indulgence; but the large number of these cases, which renders it impossible for the District Attorney to devote his exclusive attention to any one, the difficulty of procuring information as to the facts, the importance of this particular case, and the circumstance that the law officer of the Government has but recently entered upon his office, have induced me to give to that officer all the opportunities for the preparation of these cases which, without disregarding the rights of the claimants, I can extend to him.

Romero et al. v. United States.

INOCENCIO ROMERO *et al.*, CLAIMING EL SOBRANTE, APPELLANTS, *vs.* THE UNITED STATES.

WHERE no grant, either perfect or inchoate, was made, nor any promise given that a grant would be made, mere occupation by the petitioner pending his application for the land does not constitute a valid claim.

Claim for five leagues of land in Contra Costa county, rejected by the Board, and appealed by the United States.

E. A. LAWRENCE, for Appellants.

P. DELLA TORRE, United States Attorney, for Appellees.

It appears from the expediente on file in the archives, that on the eighteenth day of January, 1844, the brothers Romero petitioned the Governor in the usual form for a grant of land, being a sobrante lying between the ranchos of Moraga, Pacheco and Welsh. This petition was by a marginal order referred to the Honorable Secretary for his report. The Secretary referred the papers to the First Alcalde of San José, with directions to summon Moraga, Pacheco and Welsh, hear their allegations, and return the papers to the office.

On the first of February, 1844, the First Alcalde reports that the owners of the lands bounded by the tract have been confronted with the petitioners, and that the former are willing and desirous that the land be granted. He adds that it had come to his knowledge that one Francisco Soto claimed the tract some six or seven years ago. But as he had never used or cultivated it, the petitioners appeared to him to be entitled to the favor they ask.

On the fourth of February, 1844, Manuel Jimeno, the Secretary, reports to the Governor that, in view of the report of the First Alcalde, there would seem to be no obstacle to making the grant.

On this report of the Secretary, the Governor makes the following order: "Let the Judge of the proper district take measurement of the unoccupied land that is claimed, in presence of the neighbors, and certify the result, so that it may be granted to the petitioners.

Micheltorena."

On the twenty-first of March, 1844, the claimants addressed a petition to the Governor, representing that, owing to the absence of the owners of the neighboring lands, the Judge of the Pueblo of San José had been unable to execute the superior order, (above recited) and soliciting that his Excellency would grant the tract to them, "either provisionally, or in such a way as he should deem fit," while there was yet time for planting, &c.

On this petition Jimeno reports (March 23d, 1844) that the original order should be carried into effect as to the measurement of the land, and that "as soon as that was accomplished, Señor Romero can present himself with Señor Soto, who says he has a right to the same tract."

The Governor thereupon made the following order: "Let every thing be done agreeably to the foregoing report. Micheltorena."

The above documents constitute the whole expediente on file in the archives. From the document produced by the claimants from the files of the Alcalde's office, it appears that on the same day, March 23d, 1844, Jimeno communicated to the Alcalde the order of the Governor that the sobrante solicited by the Romero's should be measured, and that if it should be necessary a measurement of the adjoining ranchos should also be made—with the understanding that those parties who should become "agraciados" should bear the expense.

It is evident that up to the date of the last order of Micheltorena no grant of the land had issued. That pursuant to the recommendation of Jimeno, the Governor declined to make even a provisional grant as solicited, and that final action in the matter was deferred until a measurement should be made, and until Romero and Soto should present themselves. Jimeno does not seem to have finally adopted the opinion of the Alcalde that Soto had forfeited his rights to the land, for he recommends to the Governor, as we have seen, that the land should be measured without delay, and that *then* "Romero should present himself, joined with Señor Soto, who says he has a right to the same land."

In this recommendation the Governor concurs.

There is certainly nothing in these proceedings which indicate that the Governor had finally determined to grant the land, though

it is evident that he regarded the application with favor; still less can any of the orders made by him be construed to import a present grant. On the contrary, it is clear that the Governor refuses to make even a provisional grant, but insists that a measurement shall first be made, and then that Romero and Soto shall appear before him, evidently with the view of determining the rights of the latter.

The subsequent proceedings, as shown by documents exhibited by the claimants, confirm this view.

On the fifteenth of January, 1847, Romero and Garcia, the present claimants, appeared before John Burton, the Alcalde of San José, and executed a paper in the presence of the Alcalde and two witnesses, reciting a sale by Romero to Garcia of one-half the land, and stipulating that both parties should remain *subject* to the final result, "*if the Government grant it in ownership.*" And if the contrary should be "the case, then Garcia should lose equally with Romero, without any right to reclaim the consideration paid." This paper is signed by the parties, the Alcalde and the witnesses.

On the twenty-eighth of May, 1847, José Romero addressed a petition to John Burton, Alcalde of San José, representing that as early as 1844, an order from the former Government had been sent to the Alcalde's Court requiring a measurement of the land called "Juntas;" that such measurement had not yet been made. He therefore solicits the Alcalde to give him a testimonial of the reports which in the year 1844 were sent to the Government, so "*that we can be granted said land.*"

The Alcalde in a marginal order directs that the lands should be measured according to the original order of the Supreme Government. In the margin of the order transmitted by Jimeno, under date of March 23d, 1844, the Alcalde writes: "Be it done accordingly, on the ninth of April, 1847. The interested parties will proceed to take possession of the mentioned land according to the order of the Government. I further order, that in case any bordering land owner demand it, a measurement of his land be ordered.

"John Burton, J. P."

It appears, moreover, that about two months before the date of their last petition, viz: on the thirty-first of March, 1847, José

Romero had addressed a petition to the same Alcalde, representing that some years before he had solicited a piece of land in the Cañada de San Ramon, and bordering upon lands of Don M. Castro, and that his Excellency had ordered the lands of Castro to be measured, which had never been done. The petitioners further stated that they were two brothers, with a numerous family, and were without any piece of land whatever to raise cattle; they therefore begged the Alcalde to provide for them as soon as possible, that they might retain and locate their stock.

The Alcalde on the fifth of April orders that the fulfillment of the superior order should be at once proceeded to. The entry in the marginal order transmitted by Jimeno was made on the Romeros' petition of the twenty-third of March, and not on that of the twenty-eighth of May, above referred to; for it directs the measurement to be proceeded to on the ninth of April. And, finally, on the twenty-seventh of December, 1847, K. H. Dimmick, then Alcalde, makes an order in which, after reciting that disputes as to the boundaries existed between the Romeros and Domingo Peralta, he directs that the boundaries be established and adjusted in the manner specified in the order of the Governor, dated twenty-third of March, 1844.

I have stated the contents of these various documents with some particularity, because an attempt has been made since the rejection of the claim by the Board, to show by parol evidence that a final grant issued to the Romeros, which has been lost.

We have seen that the last document in the expediente is the order of the Governor of the twenty-third of March, 1844, adopting Jimeno's recommendation that a measurement should be made before issuing the final grant, or even a provisional one as solicited by Romero; and even then it does not seem that the grant was certainly to be made, for Romero and Soto were to "present themselves," evidently for the purpose of enabling the Governor to ascertain their respective rights.

Nothing further seems to have been done, either by the Government or the petitioners, until 1847.

On the thirty-first of March of that year we find the Romeros representing to the Alcalde that the Governor had some years before

ordered the land to be measured, which had not been done ; and that they were without any piece of land whatever, and they beg the Alcalde to provide for them. The Alcalde thereupon directs that the superior order of March 23d, 1844, be proceeded to.

On the twenty-eighth of May, 1847, the Romeros again petition the Alcalde, representing that as early as 1844, the Governor had sent to the Alcalde's Court an order requiring a measurement of the land ; they therefore ask a testimonial of the reports and orders in his office, " so that *we may be granted the land.*" The Alcalde again directs the superior order of March 23d, 1844, to be complied with ; and on the day following a declaration is made before the Alcalde by Antonio M. Pico, that Don J. Moraga and Don L. Pacheco, the colindantes, had declared that for their parts the surplus of land which does not belong to them "*could be granted to the Romeros.*"

And, finally, the deed from Romero to Garcia of January 15th, 1847, expressly stipulates that both the parties to it should remain subject to the final result, "*if the Government grant it in ownership, and if the contrary should be the case, then Garcia should lose equally with Romero without reclamation.*"

These documents appear to me to establish beyond doubt that all action of the Government on the application of the Romeros terminated with the order of March 23d, 1844, directing the measurement as an indispensable preliminary to a grant, either final or provisional. That during the year 1847, the petitioners made several attempts to have that measurement effected, but apparently without success ; and that up to December, 1847, neither they or any one else pretended that the order of March 23d, 1844, was not the last act of the Government in the premises.

The parol testimony offered to prove that a grant issued will be briefly adverted to.

C. Brown swears that the Romeros have lived on the rancho since 1840, and that he always understood they had a grant. He does not pretend to have seen it.

James M. Tice swears that he has searched for the title papers, but has been unable to find them.

J. J. P. Mesa saw a bundle of papers in Romero's hands on his

return from Monterey, in 1844. The bundle was not opened, but Romero *said* they were his title papers. He subsequently saw Micheltorena's order for the measurement of the land. He does not pretend to have seen any grant. It is to be observed that Mesa was examined before the Board, and did not mention this circumstance; and that he can neither read or write.

Inocencio Romero, who disclaims any present interest in the land, swears that he had a grant; that he gave it to Mr. Tingley to be presented to the Board, and that since then he has not seen it. He also states that the grant was made by Micheltorena a short time after he arrived in the country, and that Arce, who was then his Secretary, delivered it to him.

The expediente however shows that Jimeno was the Secretary, at least until March 23d, 1844. And as it is clear that at that date the grant was suspended until a measurement should be made, the title papers seen by Mesa in the hands of Romero on his return from Monterey in 1844, must have been only the papers now produced.

The testimony of Mr. G. B. Tingley is the only evidence in the cause which approaches proof that a grant issued. This witness swears that on the trial of a suit between Domingo Peralta and the Romeros, a grant from Micheltorena to the latter was produced in evidence; that the petition was for a *sobranste*; that the signatures were genuine; and that one Sanford took the papers, and he has never seen them since.

On his cross examination he states that the papers produced were the original petition, and the marginal order of reference, an information signed by A. M. Pico, then a decree of concession, and final a title in form with a condition that the grant should not interfere with the adjoining grants.

If these papers were produced, they must all, with the exception of the grant, have been procured from the archives; for the petition, the informes, and the decree of concession form part of the expediente which remains on file. That expediente is in evidence in this cause, and contains no decree of concession whatever, nor any draft or "*borrador*" of the formal title delivered to the party, as is almost invariably the case where such a document issued; on

the contrary, the last order of the Governor in effect refuses, as we have seen, to grant the petition for even a provisional title until a measurement was made, which clearly was not done until after December, 1847, if at all. Besides, if all these papers were procured from the archives and were delivered to Sandford, how does it happen that only a part of them were restored to the archives, and are now produced?

José Ramon Mesa, a witness produced on the part of the United States, testifies that he was present at the trial of the suit referred to by Mr. Tingley; that no formal title was produced by the Romeroes, but only a provisional license to occupy, subject to the boundaries of the neighboring proprietors, during the pendency of the proceedings to obtain a title. The witness further swore, that he heard Inocencio Romero state to Domingo Peralta, in reply to an inquiry as to what title he had, that he had no title; that all he had was a provisional license. That on several occasions he heard Garcia say that he had no title; and that he had intended to take steps to get one, but that all he had was a "provisional license."

This provisional license is in all probability the order made by John Burton, Justice of the Peace, in April, 1847, on the margin of the Governor's order of March 23d, 1844, for the measurement of the land, and was in compliance with Romero's petition to him of the thirty-first of March, 1847. The Justice of the Peace directs that "the interested party will proceed to take possession of the land according to the order of the Government," &c. As a copy of Jimeno's order with this marginal entry of Burton's appears to have been furnished to Romero, and by him sent to Garcia, it is in all probability the "license" referred to. It will not be pretended that any rights could be conferred by such an order of an American Justice of the Peace in April, 1847.

The record of the suit between Peralta and the Romeroes has been produced. It contains no evidence whatever even tending to show that a grant was produced at the trial.

Antonio M. Pico, a witness produced by the claimants, swears that he received an order from the Governor to put the coterminous neighbors, Pacheco and Moraga, into possession of their land, and to measure the same for the purpose of separating them from those

of the Romeros; that he was directed by the same order to put the Romeros in possession of the overplus; that he summoned the colindantes, but they did not appear; that he did not then execute the order, but repeated the summons to them; that the Romeros made a complaint to the Governor, and he, the witness, received from the latter a new order to carry the former into effect, upon which he told the Romeros to go there—which they did in 1844. This witness explicitly states that no title to the land in favor of the Romeros was ever exhibited to him.

The orders referred to by Pico are obviously those contained in the expediente. The first order did not, as he supposes, direct him to put the Romeros in possession, but only to measure the land and certify the result, "so that it might be granted." Romero's complaint or petition to the Governor, stating the failure of the Alcalde to measure the land, and asking for a provisional grant, we also find in the expediente, and also all the second order of the Governor, which, like the former, only directs the measurement of the land—the Governor having, as we have seen, adopted Jimeno's recommendation that the land should be measured, and Soto and Romero should present themselves before any grant should issue.

On the parol proof alone I should come to the conclusion that Mr. Tingley is mistaken in supposing that a grant for the land was ever produced. But the evidence afforded not only by the expediente but by the repeated declarations of the Romeros themselves in their various petitions and in the conveyance to Garcia, remove every possible doubt on the question.

The facts of the case are unmistakable. The Romeros solicited land which the Governor was disposed to grant. He directed a measurement preparatory to making the grant, and this measurement never was effected. I cannot perceive how this Court can recognize these proceedings as giving any title to the land. It may be admitted that in 1844 they went upon the land, as stated by Pico—though if so, it is singular that John Burton, Alcalde, should in April, 1847, have ordered "the interested parties to proceed to take possession of the mentioned lands according to the order of the Government."

But this occupation, not authorized, so far as appears, by Gov-

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ernment, and only made in pursuance of a verbal permission of Pico, and without the measurement of the land as required by both orders of Micheltorena, can hardly be deemed to have conferred any title, either legal or equitable, upon the claimants.

The case is, perhaps, a hard one ; for there seems no reason to suppose that the grant would have been refused, if the measurement had been made, and Soto's rights had been found to have been forfeited. But no grant, either perfect or inchoate, was made, nor any promise given that one should be made.

The petitions were favorably received, a provisional grant refused, and a measurement directed. There the action of the Government ended ; and certainly such proceedings did not confer such a right of property in the land as this Court can recognize.

The claim must be rejected.

JOSEPH C. PALMER *et al.*, CLAIMING THE RANCHO PUNTA
DE LOBOS, APPELLANTS, *vs.* THE UNITED STATES.

THE fact that the Circuit and District Courts are simultaneously in session, is not sufficient cause for the continuance of a land case.

This was a motion by claimants to set the cause for hearing.

E. L. GOOLD, for the motion.

P. DELLA TORRE, United States Attorney, against it.

Since the delivery of the opinion of the Court on the motion made August 3d by the counsel for claimants, that the cause be brought to a hearing, the District Attorney showed cause on the tenth day of August for a continuance. The showing, though not strictly within the rules usually applied to such cases, was treated by the Court as sufficient, and four weeks further time, the period asked for by the District Attorney, was allowed. Monday, Sept. 7th, being a holiday, the Court was not in session, and on last Mon-

day, Sept. 14th, the claimants' counsel again moved the hearing of the cause. No cause for a continuance was shown by the District Attorney. He did not intimate that he expected, within any assigned period, to obtain testimony on the part of Government, nor that he was in possession of any facts susceptible of proof which might affect the case. He, however, urgently pressed upon the attention of the Court that he was in daily attendance upon the Circuit Court now in session, and desired that this cause should be postponed until the next regular call of the docket of land cases. He further urged that the law did not contemplate that both the Circuit and District Courts should be in session at the same time, and that the Government could not be expected to provide two officers to be in attendance upon the Courts when their holding their sessions at the same time was not contemplated by law.

As to these suggestions, it is to be observed that the Act of 1855, which authorizes the Circuit Judge to form part of and preside over the District Court when hearing land cases, requires him so to do only "when in his opinion the business of his own Court will permit," clearly implying that the Legislature contemplated that both Courts might be in session simultaneously. And in the fee-bill of 1853 the Marshal is in terms allowed a per diem for attending the Circuit and District Courts "when they are *both* in session, or for attending either of said Courts when but *one* is in session." It cannot therefore be said that simultaneous sessions of both Courts are not contemplated by law.

But the exercise of the discretion of the Court as to continuing this cause does not depend upon technical considerations such as this. The Court has already intimated to the District Attorney that it would suspend for the present, while his engagements continued imperative, the regular call of the docket of land cases. This, though a great hardship to claimants, seemed unavoidable, as they could not reasonably expect the District Attorney to prepare for hearing a certain number of new cases, when his duties in the Circuit Court engrossed his whole time.

But the case at bar has already been regularly called, and has been, from May 6th, set for a hearing seven different times. On the fifteenth of June, six weeks further time was allowed to the

District Attorney. At the expiration of that period he was again allowed four weeks further time, though the application was strenuously opposed by the claimants, and now, without any showing other than that he is engaged in the Circuit Court, an indefinite postponement is asked until the next call of the calendar. This postponement is not asked because the District Attorney is unable to appear and argue the cause in Court, for no desire to argue the cause orally was intimated, and the general practice has been to submit these cases on written briefs. If, however, an oral argument be desired, the Court will assign a day when the District Attorney is not in actual attendance on the Circuit Court. A convenient time for filing briefs will of course be allowed. The real object of the motion is to postpone the submission and to keep it open for further proofs. I think the claimants have a right to insist that their cause be heard, especially as no testimony whatsoever, on the part of the United States, has been taken since the cause has been in this Court, and there seems no reason to suppose that at the expiration of a month from this date the Government will be more ready to submit the case than it was a month ago.

So many cases are already before this Court for determination, requiring minute and careful investigation, that it is not probable that this cause will be taken up by the Court and finally disposed of before the expiration of a considerable time.

If at any time before the entry of the final decree, new matter should be brought to light or testimony be newly discovered, it will of course be in the power of the District Attorney to move that the cause be reopened for the purpose of hearing it.

The Court has felt the utmost reluctance in refusing this application. We would have much preferred that a cause involving so great an amount should be heard only when both sides announce themselves in readiness. But we have felt that the claimants have rights as well as the Government, and that under all the circumstances we are not at liberty to grant the continuance asked for.

The cause must therefore be set for argument on Saturday, Sept. 29th, at the opening of Court on that day, and if no oral argument be desired, it will be considered as submitted with liberty to either side to file briefs.

GEORGE SWAT, CLAIMING THE RANCHO NUEVA FLANDRIA,
APPELLANT, *vs.* THE UNITED STATES.

WHERE a claimant for land has presented his petition to the Board of Land Commissioners, but has neglected to support it by evidence within two years thereafter, such neglect does not bring the claim within the limitation prescribed in the thirteenth section of the Act of March 3d, 1851.

Whether this Court can proceed to decide such claim solely on evidence taken by its order, left an open question.

The claim rejected as fraudulent.

Claim for three leagues of land on the Sacramento river, rejected by the Board, and appealed by the claimant.

E. O. CROSBY, for Appellant.

P. DELLA TORRE, United States Attorney, and PEYTON & DUER, for Appellees.

The petition in this case was presented to the Board February 28th, 1853. No evidence whatever, either oral or documentary, was introduced by the claimant before the Board, and the claim was accordingly rejected, March 27th, 1855.

The original documents on which the claim is founded, as well as the oral testimony in support of them, are for the first time submitted to this Court, under its general rules authorizing "further testimony" to be taken in this class of cases.

It may well be doubted whether the claimant has not, according to the letter as well as the spirit of the Act of 1851, forfeited whatever rights he had to the land now claimed by him. The eighth section of that act requires "all persons claiming lands by virtue of any right or title derived from the Mexican or Spanish Governments, to present the same to the Commissioners, together with such documentary evidence and testimony of witnesses as the claimant relies on to support his claim."

When the decision of the Board comes up for review in this Court, the tenth section requires a decree to be rendered "on the pleadings and evidence, and on such further evidence as may be taken by order of this Court." The thirteenth section provides

that all lands the claims to which shall not have been presented to the Board within two years after the date of the act, shall be considered public lands, etc.

The first question to be considered is—was this claim “presented” to the Commissioners within the provisions of the eighth and thirteenth sections? If not, it is barred, and the land must be deemed to be part of the public domain. The eighth section requires, as we have seen, that a party claiming land under any right or title derived from the Mexican or Spanish Governments shall present the “same.” This would, in strict grammatical construction, be taken to mean the “right or title” previously mentioned. But it cannot mean the grant itself, for the statute proceeds to say “together with the documentary evidence and testimony of witnesses” on which he relies. He is thus required to present both his title or right and also the documentary evidence of it. If then he has presented a petition, claiming the land, he would seem to have complied with one of the requirements of the law.

The thirteenth section in effect bars all claims which shall not have been presented within the two years prescribed. But as section eight evidently discriminates between the claim and the documentary evidence in support of it, it would seem that the omission to present the latter would not, within the thirteenth section, constitute an omission to present the former. I think, therefore, that the “claim” was presented within the period limited by the statute, and that the Board would have been authorized to receive evidence in support of it, though offered after the expiration of the two years.

The second and more difficult question is—can this Court proceed to decide this claim upon the evidence taken in this Court, none whatever having been submitted to the Board?

If this evidence is properly before the Court, the case must be determined upon it. The inquiry then is—does the law or the rule of Court in pursuance of it authorize evidence to be taken in this Court where none has been taken by the Board?

The language of the tenth section is, “the Court shall proceed to render judgment upon the pleadings and evidence in the case, *and upon such further evidence as may be taken by its order.*”

The term "further" seems to indicate that the evidence ordered to be taken shall be *additional* evidence, and that some evidence shall already have been taken. The rule of Court provides, not that the party shall be allowed to produce testimony in the case, but that he may take *additional* testimony; and certainly both Congress and the Court contemplated that such additional testimony should be taken to supply defects and omissions, to corroborate or rebut, and not that it should constitute the whole proofs in the case.

It is clear from all the provisions of the act, that the jurisdiction intended to be conferred on this Court was in its nature an appellate jurisdiction, or a power to review the decisions of the Board. The case as presented to the Board is to be reviewed in this Court, and the decision is to be rendered upon the evidence submitted to the Board, and such *further testimony* as the Court may order. But if the claimant, disregarding the positive requirements of the eighth section, is permitted to withhold all his evidence, both oral and documentary, until he reaches this Court, the functions of this Court become in effect original and not appellate.

In cases of appeal from the District to the Circuit Courts in Admiralty, additional testimony may be taken in the latter Court. But if a libel were filed in the District Court, no testimony whatever offered in support of it, and thereupon dismissed, the libellant would hardly be allowed in the Circuit Court, for the first time, to enter upon his proofs. If such a proceeding were permitted, it would be easy to evade the provisions of law which give to the District Court exclusive original cognizance of admiralty suits, and to the Circuit Courts only an appellate jurisdiction.

But the jurisdiction of this Court in land cases, though called an appellate jurisdiction, and though the proceeding by which the decision of the Board is reviewed is spoken of as "an appeal," and though bearing a close analogy to an appeal in admiralty or equity suits, has yet been decided to be an original proceeding; the removal of the transcript of the papers and evidence into this Court "being but a mode of providing for the institution of suit in this Court." *United States v. Ritchie*, 17 How. 534.

It is to be remembered, however, that this view of the nature of the proceeding in this Court was taken by the Supreme Court to

meet the objection that the law authorizing an "appeal" from the decision of the Board was unconstitutional. The latter not being "a Court" under the Constitution, the case when presented to the District Court becomes for the first time a suit or case before a "Court," and in this sense the jurisdiction of the Court was said to be original. But the mode of exercising that jurisdiction is exactly analogous to the mode of exercising an appellate jurisdiction, and the proceeding is practically, though not technically, an appeal. When, therefore, Congress has directed that this case shall be determined upon evidence taken before another tribunal, not a Court, but certified up to this Court to be used as evidence, and also on further evidence to be taken by order of this Court, the question still recurs whether this Court can, where no testimony has been certified to it, permit all the testimony on which its decision is to be founded to be taken as "further testimony."

The answer to this question depends on the force we attach to the word "further." If the construction contended for by the United States be adopted, the Court would still be at liberty to order further testimony to be taken in all cases where *any* testimony whatever had been taken by either side before the Board. Suppose then, that the testimony so taken by a claimant is wholly irrelevant, or immaterial, or even adverse to him, shall he be in a better position in this Court than one who by accident or neglect of agents or counsel has been unable or has omitted to produce any testimony? It would hardly occur to the claimant under such circumstances that he could save his rights in this Court by examining before the Board a witness who knew nothing about his claim, or who would testify that he had no title.

Again: If the strict and literal construction of the term "further" be adopted, it might with some plausibility be urged that the testimony must be additional to some testimony already taken by the party seeking to introduce it. Suppose then, the United States have been wholly unable to procure any evidence before the Board to establish a suspected fraud. When the case is in this Court conclusive evidence is for the first time discovered. Shall they be prevented from introducing it because they have offered no testimony to the Commissioners?

It is unnecessary, however, to pursue this subject further. On the whole, I incline to the opinion that the intention of Congress was to allow testimony on either side to be taken in this Court; that the word "further" was used because it was taken for granted that the claimants would in all cases comply with the directions of the eighth section, and offer some testimony to the Board; but that it was not intended to provide for the rare and exceptional case where they had totally omitted to do so, nor absolutely to restrict the power of the Court to those cases where in strictness of language the testimony could be deemed "further testimony."

In the present case, however, it is not necessary finally to decide the point. It is to be considered, therefore, as still open to discussion in this Court. We proceed to consider the merits of this case.

The title of the appellant is claimed under what is known as the general title of Micheltorena. The question to be determined is one of fact—Was the claimant one of those in whose favor the general title issued? The persons to whom the Governor authorized General Sutter to deliver a copy of the general title were those who had petitioned for lands, with a favorable informe by the latter, previous to December 22d, 1844, the date of the general title. If therefore, it appears that previous to that date the claimant had petitioned for his land, procured a favorable informe from Sutter, and obtained a copy of the general title from him, he is, according to the ruling of this Court, entitled to a confirmation of his claim.

In support of his claim an original petition to Governor Micheltorena, dated November 13th, 1844, is produced, with a marginal informe by Gen. Sutter of the same date, together with a copy of the general title, and a certificate signed by Sutter that it was delivered to Juan de Swat on the twenty-fifth of April, 1845.

It is contended that no petition was ever presented to the Governor; that the petition now produced was made November 3d, 1845; that its date has been altered to November 13th, 1844, and the favorable informe of Gen. Sutter, dated November 13th, 1844, recently written in the margin.

The present claimant is the brother and heir of Juan de Swat, the alleged original grantee. During his lifetime Juan de Swat

conveyed his interest in a part of the lands to Warner, by whom a claim was presented to the Board through his attorneys Messrs. Kewen & Morrison. It is shown that Juan de Swat delivered to Warner his title papers. And copies of the papers as presented in the Warner case are in evidence in this cause. Mr. Morrison, one of the attorneys of Warner, testifies that he had in his possession the original papers in the case, viz: the petition of Swat to the Alcalde, De la Rosa, with the marginal indorsements of that officer and of Sutter, the petition to the Governor and the map accompanying it. That he delivered all these papers to Mr. Crosby, the attorney for the present claimant. It is also shown that Swat himself stated that Messrs. Kewen & Morrison had his original papers, which is further corroborated by the fact that Swat and Warner conveyed to Kewen & White an interest in part of the land as a compensation for their professional services. A copy of the petition to the Governor is produced and admitted to be in the handwriting of Mr. Kewen. This copy was delivered with the other papers to Mr. Crosby by Mr. Morrison.

On examining the copies of the papers filed in the Warner case, the originals of which were, as has been stated, delivered to Mr. Crosby after the Warner case was rejected and abandoned, we find them to correspond in every respect with the papers now produced, except in three vital particulars: The map has no date, while that now produced has the figures "1844" upon it. The petition to the Governor is dated November 3d, 1845, instead of November 13th, 1844; and there is no favorable informe of General Sutter on its margin.

That a map without the date of 1844, that a petition to the Governor dated November 3d, 1845, and having no marginal informe by Sutter, were presented in the Warner case, cannot be doubted; and that those papers were delivered to Mr. Crosby, is equally clear. If the papers now produced be not those papers which have since been altered, where are they? And whence have the papers now produced been obtained?

No explanation on these points is offered on the part of the claimant, nor is any reason suggested why Warner & Swat, who are shown to have given the papers to Messrs. Kewen & Morrison,

should have withheld from them the only papers by which the claim could be established. That Messrs. Kewen & Morrison had no papers bearing the dates of those now presented is clear; and the copy of the petition to the Governor made by Mr. Kewen and handed with the other papers to Mr. Crosby, is dated like that filed in the Warner case, November 3d, 1845, and not November 13th, 1844.

On examining the petition now produced we recognize the facility with which an alteration of its date could be made. Numerous experts have testified that they discover the marks of the supposed alteration by the insertion of the figure one before the three in the date of the day, and the change of the number of the year from 1845 to 1844. I cannot say that I have been able myself to detect these alterations, although there is evidently something unnatural in the appearance of the figures, which suggests the possibility of their having been changed. One indication is extremely suspicious, the ordinary English affix "*th*" is placed after and above the figures "13," which certainly would not have been done by a person writing a document in Spanish.

But the moral evidence afforded by the circumstances of this case is stronger than any furnished by the mere appearance of the documents.

Before we can believe the petition now presented to be genuine, we must suppose that two petitions to the Governor were drawn, the one dated November 13th, 1844, the other November 3d, 1845. That they were not merely similar in purport but identical in every particular, except the date. That when the title papers were furnished to counsel for the purpose of establishing the claim, only one of them was delivered with the other papers; that the other, on which alone the claim could be substantiated, was withheld. That neither they suspected, nor their clients advised them during the whole proceeding, of the existence of any other petition than that furnished. That the second petition has recently, and after the cause had been pending two years before the Board, and after the claim had been rejected, been suddenly produced we know not whence, while the first petition has disappeared we know not whither; and, finally, that the unfortunate coincidence has oc-

curred that the second petition presents, if not unmistakeable marks of alteration, at least an equivocal and suspicious appearance.

A series of suppositions so improbable and extravagant cannot, without the clearest proof, be entertained. The testimony of Mr. Bidwell is relied on by the claimant to explain some of the circumstances of the case. But the evidence of this witness tends to corroborate rather than to weaken our suspicions. It is clear from his statements that in the fall of 1845, or spring of 1846, he did prepare a petition and map for Swat, but was evidently prevented from presenting them to the Governor. But the previous petition of November, 13th, 1844, he cannot recollect. That purporting to bear that date he recognizes as in his handwriting, and he presumes from its date and from the date of the map, that he drew it at the time it bears date. His opinion is thus derived entirely from the date of the documents, and the question whether those dates have been altered is the very point in controversy.

But, in addition, it is admitted that on the seventh of October, 1845, Swat petitioned the Alcalde of Sonoma for permission to occupy the land in question for the security of his cattle and horses. That this petition was referred to Gen. Sutter, who reported on the thirty-first of October, 1845, that the land was vacant. And yet if the documents now produced are genuine, he had on the thirteenth of November preceding petitioned the Governor for the same land, with a favorable report by Sutter, and the latter had, as authorized by the general title, delivered to him a copy of that document on the twenty-fifth of April, 1845. At the very time then at which he asks for permission to occupy a piece of land for the security of his cattle, and at which Sutter certifies that it is vacant, and for six months previously, he had received from Sutter himself what was then regarded and what has since been considered by this Court as a good title to the land.

Again: If at the time the petition of 1845 was drawn, Swat had already presented a precisely similar petition, with a favorable report of Sutter, on which the latter had given him a copy of the general title, those papers must have been in his possession. It is certainly surprising that Mr. Bidwell, who was conversant with the mode of obtaining grants, should have totally forgotten such im-

portant documents, and should, when drawing the petition of 1845, have omitted all mention of the previous petition of 1844, drawn by himself, on which was written Sutter's favorable report, and on which Swat had already obtained a copy of the general title. That it must have been before him when he drew the petition of 1845 is evident from the fact that the one is a literal transcript of the other, and that they only differ in their dates.

If the object of the second petition of Swat was merely to procure the "extension of his title in proper form," as promised in the general title of Micheltorena, the nature of the application was essentially different from an ordinary petition for lands; and yet in his second petition he merely asks for "the *vacant* land" on the Sacramento river, and gives its boundaries, etc., in the usual form, while he wholly omits to mention the facts which constituted the foundation of his application. It is not conceivable that Mr. Bidwell should, under such circumstances, have contented himself with copying the first petition, and should now have lost all recollection of so singular a proceeding. If to all these considerations be added the facts that the petition of the present claimant to the Board omits to mention the date of the petition to the Governor, or Sutter's favorable report upon it; that no one of the numerous attorneys who have been concerned in the case, or of the persons who have examined the papers, has ever seen such papers as are now produced; that if this petition be not the petition of 1845, with its date altered, that paper has suddenly and unaccountably disappeared simultaneously with the equally unexplained appearance of the present petition; that Swat repeatedly declared to numerous witnesses that his title consisted of the "Alcalde papers, and that he had been too late in his application to the Governor"; and, finally, that the present claimant, in a deed dated July, 1855, refers to the petition of Swat to the Governor as made on November 3d, 1845, showing that even so late as 1855 the existence of the petition of 1844 was wholly unknown to him,—the conclusion is irresistible, that no petition dated November 13th, 1844, was ever presented to the Governor or prepared by Bidwell, and that the document now presented is the petition of November 3d, 1845, the date of which has been fraudulently altered, and on

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which the marginal endorsement of Gen. Sutter has since been written.

There is some testimony which would, if admitted, confirm this view of the facts. I have not thought it necessary, however, to decide upon the question of its admissibility, for upon the evidence above referred to I entertain no doubt as to the facts of the case.

The claim must be rejected.

THE UNITED STATES, APPELLANTS, *vs.* JAMES ENRIGHT,
CLAIMING A TRACT OF LAND IN SANTA CLARA COUNTY, TWO
THOUSAND VARAS SQUARE.

AN inchoate title, followed by juridical possession, presents an equity which the United States are bound to respect.

This claim was confirmed by the Board, and appealed by the United States.

P. DELLA TORRE, United States Attorney, for Appellants.

J. B. CROCKETT, for Appellee.

The documentary evidence of title exhibited by the claimant in this case is as follows: a petition to the Governor dated Dec. 20th, 1844; a marginal decree or order for information by the Governor, and a favorable report by the Secretary, Manuel Jimeno. On receiving this report, the Governor makes the following decree. "January 6th, 1845. Granted as asked for and reported by the most Reverend Father Minister. Micheltorena."

The claimant has also produced a record of judicial possession, which seems to have been formally given him by the Constitutional Judge of First Instance of the Pueblo of San José Guadalupe on the eighteenth of February, 1846.

It is objected that these documents are insufficient to vest any title, either legal or equitable, in the claimant. It must be

admitted that the concession in this case is not the final *documento* or title which, by the eighth article of the regulations, the Governor was authorized to issue when the definitive concession was made.

In *Arguello v. The United States*, (18 How. 543) the Supreme Court, after alluding to the "informes" usually required, says: By the fourth section, the Governor being thus informed may 'accede or not' to the petition. This was done in two ways: sometimes he expressed his consent by merely writing the word '*concedo*' at the bottom of the expediente; at other times it was expressed with more formality, as in the present case. * * It is intended merely to show that the Governor has 'acceded' to the request of the applicant, and as an order for a patent or definitive title in due form to be drawn out for execution. It is not itself such a document as is required by the eighth section, which directs that the definitive grant asked for being made, a document signed by the Governor shall be given to serve as a title to the parties interested."

But this concession, although not the final title which issued under the eighth article, is nevertheless a grant. The words of the grant are positive and plain; and though shorter and more informal than the usual decree of concession, commencing with the words "vista la peticion," it is in all respects as effectual to constitute an inchoate or imperfect title.

It has always been held by this Court, that according to the provisions of the Regulations the formal or definitive title contemplated by the eighth article could not issue until after the concession of the Governor had been approved by the Departmental Assembly; and that though the practice of issuing that document in advance of such approval, and in terms "subject to it," obtained to a considerable extent, yet such a document, where no approval had been obtained, constituted merely an inceptive or equitable title. Whether this latter view be correct or not, no doubt can be entertained that the first decree of concession, whether made in the more formal manner usually observed or, as in the present case, by the short declaration that the land was "granted as asked for," afforded the basis for the Departmental Assembly, whose approbation was necessary to perfect or give "definitive validity" to the title.

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When therefore it appears that this inceptive title has been delivered to the party shortly after its date, and has been regarded by the judicial officer as furnishing the requisite authority to enable him to put the grantee in possession, it should be treated as vesting in the grantee the inchoate or equitable title, which when followed by occupation and cultivation ought to be respected.

There is no reason to suppose that when the Governor, after having obtained the requisite information, had acceded to the petition, made a decree of concession, and ordered the patent to issue, he would have declined to sign the title in form. So far as his action was concerned he was *functus officio*, except the merely formal act of signing the final "*documento*;" and it may well be doubted whether, if this concession had been approved by the Assembly, he would have been at liberty to withhold from the party the formal evidence of title which the eighth article directs him to issue in such cases.

It is not explained why the Governor did not in this case pursue the more usual practice of issuing the final title "subject to the approval of the Assembly." He may, perhaps, in strict conformity with the regulations, have withheld it until the approval was obtained, or he may, according to the loose and informal practice of the country, have considered that for so small a piece of land the grant indorsed upon the petition was sufficient to secure the rights of the applicant. The concession was at all events delivered to the grantee; for we find it in his hands very soon after its date, and by virtue of it the possession was formally delivered to him.

The next inquiry is, did the grantee fulfill the conditions usually annexed to the formal title, and in consideration of which it issued?

On this point there is some conflict of evidence. After referring to the testimony, the Board in their opinion say: "From a careful examination of all the proofs in the case, we think the preponderance of proof is in favor of the claimant, and must be regarded as establishing the fact of the cultivation of the place by Garcia from a period anterior to the grant to the time of sale to Enright" (the present claimant).

We see no reason to dissent from this conclusion.

The remaining question relates to the location and extent of the

land. The petition describes it as "2000" varas of farming land; a note in the margin of the petition by Pacheco states that the petition for the farming land is for 8000 varas.

Under this description juridical possession was given of a piece of land 2000 varas square. There might, perhaps, be some room to doubt whether the land described in the petition was 2000 varas square or 2000 square varas; but the note of Pacheco, the construction given to the concession by the Alcalde, as well as the natural interpretation of the words when properly used, satisfy us that the intention was to grant a piece of land 2000 varas square, or bounded by a line 8000 varas long, taking the four sides together, as stated by Pacheco.

On the whole, we are of opinion that the grantee acquired by the concession an inceptive or inchoate title, which when followed by cultivation and juridical possession constitute an equity the United States are bound to respect.

The decree of the Board must be affirmed.

JAMES NOÉ, CLAIMING THE ISLAND OF THE SACRAMENTO,
APPELLANT, *vs.* THE UNITED STATES.

An appeal will be granted on application made after the expiration of the term at which the decree was rendered; the objection that the Court has no power in the premises being one that should be determined by the Supreme Court.

This was an application for an order granting an appeal in behalf of the United States.

P. DELLA TORRE, United States Attorney, for the order.

CALHOUN BENHAM, against it.

An appeal is asked for in this case by the District Attorney. The application is opposed on the ground that the Court has no power to grant an appeal after the expiration of the term at which the decree has been rendered.

The question raised is important, for it is understood that there are several cases in which decrees were rendered during the last term, and in which no appeal was taken during that term. By the Act of 1851, no period is expressly mentioned within which the appeal must be taken. The language of the tenth section is: "The District Court shall proceed to render judgment, and *shall*, on the application of the party against whom judgment is rendered, grant an appeal to the Supreme Court." It is contended that the word "appeal" imports *ex vi termini* a proceeding taken *sedente curia*, or during the session of the Court at which the decree appealed from is rendered.

It was early decided by the Supreme Court that the term "appeal," in the Judiciary Act of 1789, must be understood in its technical sense, expressive of the civil law mode of removing a cause to a higher tribunal, and not in its popular sense as descriptive of appellate jurisdiction, without regard to the manner in which the cause is transmitted to that jurisdiction. (7 Cranch, 108, 387; 2 Wheat. 248.)

The term "appeal" is undoubtedly used in the same sense in the Act of 1851, and denotes the civil law mode of transferring a cause to a superior tribunal for a retrial of the matters of fact as well as of law, as distinguished from a writ of error by which errors in matters of law were alone submitted for revision. The question then arises, whether an "appeal," according to the import of the term in the civil law as it is used in the proceedings of the courts in England and the United States, whose practice is based upon the rules of the civil law, or as used in the Acts of Congress, necessarily denotes a proceeding to be taken in open Court, and during the term at which the decree appealed from is rendered.

By the Roman law, up to the time of Justinian, appeals *viva voce* were allowable on the day the sentence was pronounced. (Cod. de Appell. 7, 62, 14; Dig. 49, 1, 2.) A little more time was given for an appeal in writing.

According to Ulpian, (Dig. 49, 1, 2, sec. 11) two days were allowed to one acting in his own cause, three days to one acting in a representative capacity, such as tutor, curator, &c. But various impediments or excuses were received to mitigate the rigor of this

return from Monterey, in 1844. The bundle was not opened, but Romero *said* they were his title papers. He subsequently saw Micheltorena's order for the measurement of the land. He does not pretend to have seen any grant. It is to be observed that Mesa was examined before the Board, and did not mention this circumstance; and that he can neither read or write.

Inocencio Romero, who disclaims any present interest in the land, swears that he had a grant; that he gave it to Mr. Tingley to be presented to the Board, and that since then he has not seen it. He also states that the grant was made by Micheltorena a short time after he arrived in the country, and that Arce, who was then his Secretary, delivered it to him.

The expediente however shows that Jimeno was the Secretary, at least until March 23d, 1844. And as it is clear that at that date the grant was suspended until a measurement should be made, the title papers seen by Mesa in the hands of Romero on his return from Monterey in 1844, must have been only the papers now produced.

The testimony of Mr. G. B. Tingley is the only evidence in the cause which approaches proof that a grant issued. This witness swears that on the trial of a suit between Domingo Peralta and the Romeros, a grant from Micheltorena to the latter was produced in evidence; that the petition was for a *sobrante*; that the signatures were genuine; and that one Sanford took the papers, and he has never seen them since.

On his cross examination he states that the papers produced were the original petition, and the marginal order of reference, an information signed by A. M. Pico, then a decree of concession, and final a title in form with a condition that the grant should not interfere with the adjoining grants.

If these papers were produced, they must all, with the exception of the grant, have been procured from the archives; for the petition, the informes, and the decree of concession form part of the expediente which remains on file. That expediente is in evidence in this cause, and contains no decree of concession whatever, nor any draft or "*borrador*" of the formal title delivered to the party, as is almost invariably the case where such a document issued; on

the contrary, the last order of the Governor in effect refuses, as we have seen, to grant the petition for even a provisional title until a measurement was made, which clearly was not done until after December, 1847, if at all. Besides, if all these papers were procured from the archives and were delivered to Sandford, how does it happen that only a part of them were restored to the archives, and are now produced?

José Ramon Mesa, a witness produced on the part of the United States, testifies that he was present at the trial of the suit referred to by Mr. Tingley; that no formal title was produced by the Romeros, but only a provisional license to occupy, subject to the boundaries of the neighboring proprietors, during the pendency of the proceedings to obtain a title. The witness further swore, that he heard Inocencio Romero state to Domingo Peralta, in reply to an inquiry as to what title he had, that he had no title; that all he had was a provisional license. That on several occasions he heard Garcia say that he had no title; and that he had intended to take steps to get one, but that all he had was a "provisional license."

This provisional license is in all probability the order made by John Burton, Justice of the Peace, in April, 1847, on the margin of the Governor's order of March 23d, 1844, for the measurement of the land, and was in compliance with Romero's petition to him of the thirty-first of March, 1847. The Justice of the Peace directs that "the interested party will proceed to take possession of the land according to the order of the Government," &c. As a copy of Jimeno's order with this marginal entry of Burton's appears to have been furnished to Romero, and by him sent to Garcia, it is in all probability the "license" referred to. It will not be pretended that any rights could be conferred by such an order of an American Justice of the Peace in April, 1847.

The record of the suit between Peralta and the Romeros has been produced. It contains no evidence whatever even tending to show that a grant was produced at the trial.

Antonio M. Pico, a witness produced by the claimants, swears that he received an order from the Governor to put the coterminous neighbors, Pacheco and Moraga, into possession of their land, and to measure the same for the purpose of separating them from those

appeals to be taken *either sedente curiâ* and before an adjournment *sine die*, or *afterwards*, within a fixed time, in the Clerk's office. As in the Massachusetts district no rules as to appeals had been established, but the uniform course from the earliest period had been to take appeals in open Court before the adjournment, this practice was considered equivalent to a rule, and obligatory upon all parties.

The case of *The Steamboat New England*, so far as it relates to the point under discussion, affirms the decision of *Norton v. Rich*, and avowedly proceeds on its authority.

It is evident that in these cases appeals were required to be taken *sedente curiâ* and before adjournment, solely because the rules of Court, or a long continued and uniform practice equivalent to a rule, had so provided; and not because the right of appeal conferred by statute imported such a proceeding and none other. Had such been Judge Story's construction of the term, he would not have admitted the power of the Court to enlarge or abridge the right.

The one hundred and fifty-second rule of the District Court for the Southern District of New York, affirms the same principle. That rule provides that appeals may be entered within ten days from the time of rendering the decree. "A brief notice in writing, to the Clerk and opposite proctor, that the party appeals in the cause, shall be a sufficient entry of the appeal, without any petition to the Court for leave to enter the same." Under this rule, appeals are entered in the Clerk's office within the time limited, but wholly without regard to the adjournment of the Court; and the practice of taking an appeal in open Court at any time before its adjournment has fallen into disuse, if, indeed, it be any longer admissible.

I think it clear that the term "appeal," according to the practice of all the Courts proceeding according to the forms of the civil law, has no such meaning as that attributed to it in the argument. But even if this were doubtful, the question would still arise, whether Congress intended to use it in the Act of 1851 in any such limited and doubtful sense. Had the intention of Congress been to prescribe a period shorter than that allowed by the general laws

regulating appeals, some limitation would probably have been fixed as in the Acts of 1824 and 1828, by the first of which twelve months and by the second four months were allowed.

They would hardly have left the limitation to be inferred from the use of the word "appeal" in a sense different from that in which it is elsewhere used in legislation, and when the period thus allowed would vary from six months to a few moments, depending upon whether the decree was rendered at the beginning or the end of the term. It seems far more probable that Congress used the term as it is known in the Acts of Congress, and as importing a proceeding to be taken within five years from the date of the decree. Such a limitation would no doubt be applied should the case arise, and very possibly the Court, in the absence of express regulations on the subject, would be authorized to fix by its rules a reasonable period within which the appeal is to be taken, as has been done by the District Courts sitting in Admiralty in cases of appeal to the Circuit Court, which are in like manner unprovided for by statute. No such rules have, however, been established by this Court, the practice having been to grant the appeal whenever moved for.

The objection we have considered has only recently been raised, and if suffered to prevail would operate as a surprise upon the United States, as well as upon claimants who, in ignorance of any such implied limitation on the right of appeal, have omitted to move for it before the expiration of the term at which the decree was rendered.

For the reasons above stated, we think the objection cannot be sustained.

It may be observed in conclusion, that the question presented is in its own nature more fit for the consideration of the superior tribunal to which an appeal is sought, than for that of the inferior Court from which an appeal is taken. A preliminary motion to dismiss the appeal as irregularly taken may be made before the Supreme Court, and the question finally determined; whereas, a refusal by this Court to allow the appeal would involve the delay of a mandamus to this Court, until the return of which the decision of the point would necessarily be deferred.

HEIRS OF JOSÉ F. ARMIJO, CLAIMING THE RANCHO LAS
TOLENAS, APPELLANTS, *vs.* THE UNITED STATES.

THIS claim is entitled to confirmation under the rulings of the Supreme Court in Fremont's case.

Claim for three leagues of land in Solano county, rejected by the Board, and appealed by the claimants.

JEREMIAH CLARKE, for Appellants.

P. DELLA TORRE, United States Attorney, for Appellees.

The documentary evidence produced from the archives shows that in November, 1837, José F. Armijo petitioned for the land claimed in this case, and obtained from M. G. Vallejo, Director of Colonization and Military Commandant of the district, permission to occupy it. On the twenty-eighth of February, 1840, he presented his petition to the Governor, reciting the previous proceedings and soliciting a final grant. This petition was referred to the Prefect of the district, and a favorable *informe* returned. On the third of March, 1840, a grant in the usual form was issued by Governor Alvarado. The original grant delivered to the party is produced by him and its genuineness proved. The authenticity of the papers produced from the archives is not disputed, nor is the *bona fides* of the grant questioned.

It also appears that from a period shortly subsequent to the grant, the grantee took possession of his land, built a house upon and stocked it with cattle. From that time to the present the rancho has been in possession of Armijo and his heirs.

Some doubt is raised as to whether the house built by Armijo was within the boundaries of the land granted to him, or within those of the adjoining rancho of Gen. Vallejo. It is evident, however, that Armijo occupied the land, claiming it to be his under his grant; that he continued to assert his title from the date of his grant until his death, and that his representatives were found by the United States, at the conquest, living on the land and claiming to own it. It is clear, therefore, that Armijo never abandoned his rights, and the

case has no analogy to that indicated by the Supreme Court as amounting to an equitable forfeiture of the rights acquired by the grant, viz: an abandonment of the grant during the existence of the former Government, and an attempt to resume it from its enhanced value.

The land is described in the grant as known by the name of "Tolenas," and bounded by the Arroyo of Suisun, the Estero of Julpinas, the Arroyo of Ololatos, and the Sierra.

The fourth condition describes it as of three leagues in extent, as shown by the map in the expediente. The surplus is reserved in the usual form.

The exterior boundaries are shown to embrace a tract considerably larger than the quantity mentioned in the condition. Any objection to the grant on this account is disposed of by the Supreme Court in the case of Fremont.

The claimants are therefore entitled to a decree of confirmation to three leagues of land, to be located within the exterior limits mentioned in the grant, and in the form and divisions prescribed by law for surveys of lands in California, and in one entire tract.

JOSEPH C. PALMER *et al.*, CLAIMING THE RANCHO PUNTA DE LOBOS, APPELLANTS, *vs.* THE UNITED STATES.

THE power of the Mexican Government to grant lands in California was unimpaired by the declaration of Congress that war existed, and the prosecution of that war by the Executive, and did not cease until the actual conquest of the country.

The declaration in the *projet* of the treaty between the United States and Mexico that no grants of land had been made by the latter subsequent to May 13th, 1846, which declaration was stricken out by the Senate, cannot bar the rights of persons claiming lands under grants made since that day, and before actual conquest; those rights being held sacred by the laws and usages of civilized nations, and not affected by treaty stipulations.

The date of the actual conquest of California not necessary to be judicially ascertained, so far as the decision of this case is involved.

The claim must be rejected, on the ground that the *bona fides* of the grant have not been sufficiently established by the evidence.

Claim for two leagues of land in San Francisco county, rejected by the Board, and appealed by claimants.

E. L. GOOLD, for Appellants.

P. DELLA TORRE, United States Attorney, and EDMUND RANDOLPH, for Appellees.

Before proceeding to an examination of the merits of this case, a general objection to the validity of the grant must be considered. The grant purports to have been executed on the twenty-fifth of June, 1846, subsequently to the declaration of war between the United States and Mexico.

It is contended, on the part of the United States, that on general principles of public law, grants made *flagrante bello*, when conquest has been set on foot, and actual occupation is imminent and inevitable, have no validity against the subsequent conqueror. The question has not heretofore been presented to this Court. It has been discussed with much ingenuity and ability.

It is urged that in the conduct of war and the determination of its objects, the political department is supreme; and that the judiciary are bound by the view taken of the war by the political branch of the Government; that although Congress has alone power to declare war, to the Executive is given the right of shaping it to its ends or of declaring its objects.

To ascertain its objects resort must, therefore, be had to Executive acts, and as the Executive acts in this case unequivocally indicate that a principal object of the war was to acquire California, that acquisition was thus brought within the scope of the war, and must be so regarded by the Courts.

To this point the case of *Harcourt v. Gailyard*, 12 Wheat., is cited. Such being the object or scope of the war, it is urged that the intended conquest of California embraced not only the establishment of sovereign rights in the territory, but also the acquisition of the public property within it.

That the proprietary rights to be acquired by the conquest are as essential, though not as important a part of the fruits of conquest, as the political rights, the commercial and other advantages

proposed to be obtained, and that no part of these objects of the conquest is to be ignored.

The conquest of California, including the acquisition of the public domain, having been thus shown to have been the object, or brought within the scope of the war, it was urged that any grants of public land made after the conquest was projected, and when it was about to be effected, though before it actually occurred, must be deemed to be in fraud of the rights of the incoming conqueror, and invalid as against him.

The foregoing statement is believed to present the outline of the argument submitted on the part of the United States. Both the premises and the conclusion must be examined.

If the conquest of California was the object of the war, it must be so considered, because that object was avowed by competent authority when war was declared, or because it was made the object of the war after its commencement by the political branch of the Government.

It may be admitted that this Government had long regarded California, or the Bay of San Francisco, as an important and desirable acquisition. The instructions of the President to Mr. Slidell indicate the wish of the Executive to obtain it by purchase and cession, as Louisiana and Florida had been acquired.

It by no means follows that the intention to obtain it by force of arms or conquest can be attributed to Congress, still less that such was its object or motive in declaring war.

The law by which war was declared recognizes it as previously existing by the act of Mexico, and it is known that hostilities arose from the invasion by Mexico of a territory claimed by the United States to be within their limits. Such was not, therefore, the object for which war was declared, or its existence recognized, nor could it constitutionally have been.

It is observed by Chief Justice Taney, in *Fleming v. Page*, 9 How. 614: "The genius and character of our institutions are peaceful, and the power to declare war was not conferred upon Congress for the purpose of aggression or aggrandizement, but to enable the General Government to vindicate by arms, if it should become necessary, its own rights and the rights of its citizens. A

war, therefore, declared by Congress can never be presumed to be waged for the purpose of conquest or the acquisition of territory."

As a limitation upon the power of Congress this distinction may practically be unimportant. As every war in which the country may be engaged must be regarded by all branches of the Government, and even by neutrals, as a just war; and as nations can readily cloak a spirit of rapacity and aggression under professions of justice and moderation, it is at all times easy, should our country be animated by such a spirit, to declare an aggressive war to be undertaken in self-defense, and an intended conquest to be desired only as a compensation for past or security against future injuries. But the distinction is important when a Court is asked to presume that conquest was the object of the war.

Under our Government, at least, such a presumption cannot be indulged.

The conquest of California being thus shown not to have been the object for which war was declared, we may next inquire whether by the acts of the Executive under its power to conduct the war, it became such, or was brought within its scope, in the sense in which the phrase was used at the bar?

In his annual message to Congress in December, 1846, the President distinctly states that the war originated in the attempt of Mexico to reconquer Texas to the Sabine. After adverting to the considerations which had induced the Executive to interpose no obstacles to the return of Santa Anna, the latter being more favorably disposed to peace than Paredes, who was then at the head of affairs, the President observed: "The war has not been waged with a view to conquest, but having been commenced by Mexico, it has been carried into the enemy's country, and will be vigorously prosecuted there with a view to obtain an honorable peace, and thereby secure ample indemnity for the expenses of the war, as well as our much injured citizens, who have large pecuniary demands against Mexico."

Similar declarations are frequently and emphatically reiterated by the President in various communications to Congress, and in the correspondence between the American Commissioner and the Mexican authorities.

The object of the war, therefore, as indicated by Executive acts and declarations, was not conquest, or if conquest, it was that of a safe and honorable peace.

It is true that after the military occupation of California, and after our arms had been everywhere successful, and perhaps at the commencement of hostilities, the Executive and the nation may have confidently anticipated that by the treaty of peace we would acquire California. As Mexico was known to be impoverished and distracted by dissensions, it was obvious that the only indemnity she could afford us for the expenses of the war was the cession of a portion of her territory.

The instructions of the Secretary of State to Mr. Trist show that the extension of the boundaries of the United States over New Mexico and Upper California, for a sum not exceeding \$20,000,000, was a condition *sine quâ non* of any treaty.

The extraordinary successes of our arms, the fact that we already held possession of a great part of the territory of the enemy and virtually of his Capital, our great expenditures of blood and treasure, entitled us to retain a portion at least of our conquest, as the only indemnity we could obtain. But we were willing to restore a considerable part of our acquisitions, and to pay for that retained by us a large amount of money.

But such views and intentions on the part of the Executive as to the condition on which the war should cease, are very different from waging it with a view to conquest. The war then cannot, in any just sense, be deemed to have been declared by Congress, or conducted by the Executive, with a view to conquest.

The power of the President in the conduct of the war was that of Commander-in-Chief of the Army and Navy. He had authority to direct and control military operations. As part of the treaty-making power, he could determine where and on what conditions a treaty of peace should be made. But he had no power to impress upon the war a purpose different from that with which it was commenced, and which, as Chief Justice Taney declares, Congress could not constitutionally entertain. "The law declaring war," observes the same great authority in the case above cited, "does not imply an authority to the President to enlarge the limits of the United States

by subjugating the enemy's country. The United States, it is true, may extend its boundaries by treaty or conquest, and may demand the cession of territory as the condition of peace, to indemnify its citizens for the injuries they have suffered, or to reimburse the Government for the expenses of the war. But this can be done only by the treaty-making power, or the legislative authority, and is not a part of the authority conferred upon the President by the declaration of war. His duty and his power are purely military. As Commander-in-Chief he is authorized to direct the military and naval forces placed by law at his command, and to employ them in the manner he may deem most effectual to harrass and conquer and subdue the enemy. He may invade the hostile country and subject it to the sovereignty and authority of the United States. But his conquests do not enlarge the boundaries of the United States, nor extend the operations of our institutions and laws beyond the limits before assigned them by the legislative power."

It is true that in the case in which these observations are made, the point to be determined was whether enemies' territory, which in the course of hostilities had come into our military possession, became a part of the United States and subject to our general laws. But they are important to this case as defining the power of the President in war to be merely that of the military Commander-in-Chief; that territory can be acquired only by the treaty-making and legislative authority, and consequently, the fact that hostilities are by the military power directed against a particular portion of the enemy's territory, cannot be said to make the acquisition of that territory the object of the war.

It is therefore apparent that the war with Mexico cannot be regarded by the Judicial Department of this Government as commenced or conducted with the object of effecting the conquest of California.

The most that can be said is, that its military occupation was effected as a means of crippling and subduing the enemy, and with the expectation on the part of the Executive that we would retain and finally insist upon the cession of the territory so subjugated by our arms, as an indemnity for our injuries and expenses.

The nature and amount of indemnity to be required, the extent

of territory to be ceded, depended upon the will of the Senate and the Executive as the treaty-making power ; and until that will was expressed in the treaty, the intention to effect the permanent acquisition of all California cannot be attributed to the political power, any more than a similar intention with regard to those conquests which at the close of the war were restored.

If, then, it were a principle of public law that all alienations of public domain by a sovereign are invalid as against an enemy who has commenced or is prosecuting a war, with the object of conquering the territory within which the property is situated, or who has set on foot expeditions for the purpose with sufficient power to attain the end, as proved by the event, the facts of this case would hardly admit of its application.

But assuming the facts as contended for by the United States, we proceed to inquire whether such a rule of law exists. The right of Mexico to dispose of her public domain in California before the war is admitted. It is not denied that that right ceased as against the United States when the latter effected the conquest of the country and subverted the Mexican authority.

If it ceased before the actual conquest and displacement of the Mexican authority, it must be because the determination of the United States to effect the conquest, and the making preparation to carry out its determination, gave to the latter some inchoate or inceptive right to the territory subsequently conquered, and the title consummated by the conquest relates back by a kind of fiction to the date of its inception.

We have been unable to discover any trace or intimation of such a doctrine in any writer on the laws of war.

The rights derived from conquest are derived from force alone. They are recognized because there is no one to dispute them ; not because they are, in a moral sense, right and just. The conquest of an enemy's country, admitted to be his, is not, therefore, the assertion of an antecedent right.

It is the assertion of the will and the power to wrest it from him.

Even where a conquest is effected to obtain an indemnity justly due, it is not the assertion of any antecedent right to the particular

territory conquered, but only of the general right to a compensation for injury.

The right of the conqueror is therefore derived from the conquest alone. It originates in the conquest, not in the intention to conquer, though coupled with the ability to effect his purpose, nor even in the right to conquer as a means of obtaining satisfaction for injury.

It is the fact of conquest, not the intention or the power to conquer, which clothes him with the rights of a conqueror.

The rights acquired by the conquest are temporary and precarious until the *jus post liminii* is extinguished; and if a reconquest is effected, the rights of the sovereign who has temporarily been displaced revive, and are deemed to have been uninterrupted.

The term title by conquest expresses, therefore, a fact and not a right. Until the fact of conquest occurs, the conqueror can have no rights. To affirm that a title acquired by conquest relates back to a period anterior to the conquest, is almost a contradiction in terms.

Until, then, the conquest is effected, the rights of the existing sovereign remain unimpaired. He can therefore dispose of the public property at his discretion; nor can that right be effected by the determination of an enemy to conquer the territory, and by his preparations for the purpose, though the event may demonstrate the conquest to have been practicable.

The case of *Harcourt v. Gaillard* has been cited by the counsel of the United States in support of the doctrine contended for by them.

The distinction between that case and the case at bar is obvious.

In *Harcourt v. Gaillard* the question was as to the validity of a grant by a British Governor of land within a territory claimed to belong to the United States. As our Government had asserted and maintained by arms its title to the disputed tract, the Judicial Department were not at liberty to declare the claim to be wrongful, and to recognize the right of any other sovereign over the territory in question.

The title of the United States was in no sense acquired by conquest. Her title was antecedent to the war—it was merely maintained by arms and recognized by the treaty of peace.

The question presented was, in the language of the Court, "one of disputed boundaries, within which the power that succeeds in war is not obliged to recognize as valid any acts of ownership exercised by his adversary."

Had the claim been that of conquest alone, the case would have presented, say the Court, more difficulty. "That ground would admit the original right of the Governor of Florida to grant, and if so, his right to grant might have continued until the treaty of peace, and the grant to Harcourt might in that case have had extended to it the principles of public law which are applicable to territories acquired by conquest, whereas the right set up by South Carolina and Georgia denies all power in the grantor over the soil."

The distinction is made still more apparent in a subsequent part of the opinion of the Court: "War is a suit prosecuted by the sword; and where the question to be decided is one of *original claim to territory*, grants of soil, made *flagrante bello* by the party that fails, can only derive validity from treaty stipulations. It is *not necessary* here to consider the *rights* of the *conqueror in case of actual conquest*." (p. 528.)

The latter is precisely the question to be considered in the case at bar.

The argument of the counsel for the United States can, therefore, derive no support from the case referred to.

It is proper, however, to observe that the case of *Harcourt v. Gaillard* was not cited by counsel as directly in point. It was thought to establish that all grants of territory brought within the scope of the war are invalid; that the case of disputed boundaries presents but an illustration of the general principle, while the case at the bar furnishes another.

It has seemed to me, however, that the principle of that decision relates exclusively to the case of disputed boundaries, and that the distinction is clearly drawn between that case and one like the present; that between them the obvious difference exists that the former is a case of "original claim to territory," while the other is one of "actual conquest."

It is said on the part of the United States, that if a belligerent can, after a declaration of war, grant any portion of his property,

he can grant the whole, and thus might, by granting himself away, escape responsibility. The case supposed is an extreme one. It can rarely occur that a nation will seek safety by self-destruction.

But in such case the adversary might refuse to recognize such a voluntary suicide as affecting his rights. For the purpose of obtaining satisfaction he might justly treat the nationality sought to be extinguished as still existing. But at all events, his rights could be enforced against the successor or grantee of the extinguished sovereignty.

The question would then be purely political; for the new sovereign, whether to carry on the war or accede to the demands of the enemy of his grantor; and for the latter, whether to prosecute the war against the new sovereign. Little aid, however, can be derived from the consideration of such extreme and improbable cases.

It is further urged that the doctrine contended for on behalf of the United States is in the prize law.

It may perhaps be admitted that a theory of maritime prize formerly obtained, which assumed that a belligerent has a vested right by the declaration of war in all sea-borne private property of the other belligerent; that no such property can be the subject of lawful sale; that all contracts of sale touching belligerent property of any sort, though valid on land, are invalidated by the mere fact of such property being embarked on the ocean, and that if transferred to a neutral after the declaration of war, it is a lawful prize to the other belligerent.

Such is not now the received law of nations. It is now admitted that the *bona fide* sale of the ships of belligerents to neutrals in time of war is lawful and valid unless made *in transitu*.

In the *Johanna Emilia*, 29th Eng., L. and Eq. R. 562, Dr. Leishington says: "It is not denied that it is competent for neutrals to purchase the property of enemies in another country, whether consisting of ships or anything else. *They have a perfect right to do so, and no belligerent right can override it.*"

Such is the doctrine maintained by our Government. See opinion of Attorney General Cushing, October 8th, 1855.

If a sale to a neutral of a ship *in transitu* is held invalid as against a belligerent, it is not by reason of any inchoate right or

lien acquired by the latter by the mere declaration of war, or because the right of the enemy to dispose of his property is invalidated by the declaration of war, but because a sale of a ship *in transitu* is taken as proof of collusion and fraud, and as showing that no absolute transfer has in fact been made. The soundness of even this rule is doubted by the Attorney General in the opinion referred to.

A sale of a ship not *in transitu*, by a belligerent to a neutral, is valid as against a subsequent captor, no matter how imminent the danger of capture would have been had she remained enemy's property, and no matter what may be the number of hostile fleets fitted out to cruise against her and similar property of the belligerent.

It appears, then, that the law of nations with regard to prize of war does not recognize the principle contended for.

It is urged, however, that this principle lies at the foundation of the doctrine of *post liminii*.

It is argued that a state of war implies the reciprocal denial by each belligerent of all rights of the other. That each relies upon force alone—force to retain or force to take.

They are thus in *æquali jure*.

The principle, therefore, by which, on a reconquest, the original title revives, and is deemed to have been uninterrupted, is founded on the presumption that the displaced sovereign intended a reconquest when he was displaced, and his title on a reconquest relates back to the time when he is presumed to have formed such intention. If, then, (it is argued) the title by reconquest relates back to the time of the formation of the intention to reconquer, the title by conquest must relate back to a similar period—for a state of war implies the negation of all antecedent right on either side. The only difference between the cases being, that in the case of a reconquest, the intention to reconquer is presumed until the *jus post liminii* is extinguished; while in the case of conquest, that intention must be shown by the political acts and declarations of the conqueror.

The argument is ingenious, but the premises are, I think, erroneous.

It is assumed that a *new* title is acquired by a sovereign who recovers territories from which he has temporarily been driven.

On the contrary, he holds it by his original title, which could only have been displaced by a permanent conquest. But the fact that he recovers the territory proves that what seemed a conquest was but a temporary dispossession. The invader, therefore, acquired no rights, nor did the original sovereign lose any. He continues to rule, not by a newly acquired title which relates back to any former period, but by his ancient title, which, in contemplation of law, has never been divested.

Nor is it true that war is the reciprocal denial of all rights by the belligerents, with respect to the territories of either.

A conqueror does not deny that the territory seized was at the time of the conquest the territory of his enemy, any more than the attaching creditor denies the property attached to be that of his debtor.

On the contrary, he asserts it to be his. He seizes it as the property of his enemy, and because it is his. He asserts no antecedent title in himself. He declares, not that the territory was his, but that he will make it his by conquest.

The title or right acquired by a conquest is not the same as that of the original possessor.

It is temporary and precarious, and ceases the moment the conqueror is expelled: if, indeed, a title by conquest can be said ever to have existed, when the event has proved that the attempted conquest could not be maintained.

The title of the original owner is wholly unaffected by the temporary dispossession, and even during his dispossession it is treated as valid and subsisting until the *jus post liminii* has been extinguished.

The extinction of the *post liminii* is necessary to ripen the temporary and merely possessory right of the conqueror into such an ownership of the territory as neutrals can recognize.

If these views be correct, the case of a reconquest does not present the instance supposed of a title relating back to the period of the formation of the intention to reconquer.

But the further discussion of this subject would require more time and space than can be devoted to it.

It might, I think, be demonstrated, that a rule which supposes

all rights of a sovereign, with respect to territory subsequently conquered, to cease as against the conqueror, *not* when war is declared, but when the war is prosecuted with the object of conquest, when expeditions are fitted out for the purpose, and when the conquest is "imminent and inevitable," is not susceptible of practicable application as a rule of international law.

That those rights must continue until the date of actual conquest, or of the treaty of cession, or else must cease at the declaration of war; and that an attempt to estimate the "imminency" of the conquest at any intermediate period, or to try the validity of the exercise of sovereign rights, by calculating the chances of war at a particular moment, would be impracticable and illusory.

On the whole, we are of opinion that the right of Mexico to grant her public domain in California continued until the conquest of the country by the United States.

It is further urged, on the part of the United States, that grants made after the thirteenth of May, 1846, are not protected by the treaty of peace, because such was not the intention of the parties.

That the Mexican Commissioners who negotiated the peace, and who represented the claimants as well as the Mexican Government, solemnly, and after special inquiry, declared that none such existed. That the treaty was negotiated on the faith of this declaration.

It is admitted that such a declaration was made and embodied in the *projet* of the treaty submitted to the Senate.

Had this declaration been contained in the treaty as adopted and ratified, it might very possibly have been regarded as a covenant or stipulation that such grants should not be deemed valid by the United States.

But the clause containing it was struck out by the Senate; not by the general vote which struck out the whole of the tenth article of which this declaration formed a part, but by a distinct vote upon the question whether this particular clause should stand as a part of the treaty.

The Court cannot assume therefore, that the treaty was assented to by the United States on the faith of this declaration by Mexico; else, why strike it out?

It may, not unreasonably, be supposed that the Senate refused to allow the declaration to remain, because they were willing that grants made after the thirteenth of May, if any such there were, should be submitted to the Courts, and rejected or confirmed, as might be just.

But, assuming that the treaty was concluded on the faith of this declaration, the rights of an individual to his property cannot be affected by it.

The stipulation in the treaty by which the property of the inhabitants of the ceded territory was secured, conveyed to them no additional rights. "An article to secure this object, so deservedly held sacred in the view of policy as well as of justice and humanity, is always required and never refused." (12 Wheat. 536.)

"When such an article is submitted to the Courts, the inquiry is whether the land in controversy was the property of the claimant *before the treaty*." (United States vs. Arredondo, 6 Pet. 712.)

If, then, the land in controversy was the private property of the claimant when the country was acquired, it must have remained such, though no treaty had been made. The United States do not claim to have acquired the ownership of any other property than the public property of the enemy, nor could they justly have demanded that Mexico should assent by the treaty to the confiscation of any property, the right to which was vested in private individuals.

If, then, the United States have been willfully or accidentally deceived, as to the amount of property held in private ownership in the ceded territory, they may have a right to demand a return of some portion of the pecuniary equivalent paid by them.

The fraud or mistake of the Mexican Commissioners can have no effect upon a private right, held sacred by the laws and usages of all civilized nations, which was not derived from the treaty, and which, had it been known to exist, the United States would have been bound to respect.

These observations are made with reference to the general proposition maintained at the bar, viz: that the declaration by Mexico that no grants had been made subsequent to May 13th, 1846, invalidated all such grants to the same extent as if a stipulation to that effect had been embodied in the treaty.

We proceed to consider the merits of the case at bar.

The claim was rejected by the Board for want of proof of the mesne conveyance through which the claimants derive title.

That defect has been supplied by evidence taken in this Court.

In support of their title the claimants have produced :

1st. A petition, in the usual form, addressed to the Governor by Benito Dias, for the land called "Punta de Lobos," and dated April 3d, 1845.

On the margin of this petition is an order for information, dated May 24th, 1845.

2d. The "informes" of the officers, as required by the Governor.

3d. The formal grant signed by Pio Pico, Governor, and José Matias Moreno, Secretary, and dated June 26th, 1846.

The claimants have also produced a private letter from Juan Bandini, Secretary of the Governor, dated on the same day with the order for information to Benito Dias, in which he expresses to the latter his regret that he had not first obtained the certificates of other officers and sent them with the petition, "in which case he would have had the pleasure of sending him all his matters concluded."

The signatures to these documents are proved by the testimony of Pio Pico himself, and by other witnesses, nor has any attempt been made to call in question their genuineness. It is suggested, however, on the part of the United States, that they were signed subsequently to their date, and after the final subversion of the Mexican authority in California.

Benito Dias, the original grantee, was examined as a witness by the claimants, he having assigned all his interest in the grant.

He states that the grant was in his handwriting, and that he wrote it and sent it to the Governor for signature, in consequence of a letter from Bandini, Secretary of the Governor, stating that the grant must be obtained immediately, as the country was in a critical state; that this was done on the twentieth or twenty-first of June, at San Francisco; that he received the grant on the fifth or sixth of July, at Monterey; and that it was handed to him by Antonio Maria Osio, who received it from Celis, the courier of Dias, to whom it had been delivered by the Governor. That the grant

was signed by Pio Pico, at Santa Barbara, or Buena Ventura, the courier whom Dias had dispatched to Los Angeles having met the Governor on the road at one or other of those places.

Bernardino Soto, a witness in behalf of the claimants, swears that about two or three days before the taking of Monterey, which was on the seventh of July, 1846, he and his father were taking tea at the house of Dias, in Monterey, when Don Antonio Osio came in and handed Dias a letter. That Dias read its contents, appeared to be much pleased, and said it was a grant for the "Punta de Lobos." The witness is enabled to fix the date of this occurrence by the circumstance that he and Dias had been sent from Santa Clara to get supplies for the troops at Monterey; that he left Santa Clara on the fourth of July, which is a great feast day with the Californians, and that he arrived at Monterey the same night, when, as he relates, Dias received the title.

Dias further states, that a short time afterwards he showed the title to Manuel Dutra, with whom he left it as security for a loan of forty dollars. Bernadino Soto confirms this statement, and testifies that about two or three days after the taking of Monterey he, with Don Gabriel de la Torre, were in the house of Dutra, when Dias applied for the loan of some money, and on being asked for security he produced the title. Dutra gave him some money, and Dias left the title in his hands; after he had gone, Dutra began to read the paper, and asked the witness if he knew the tract called Punta de Lobos, to which he replied that he did.

Manual Dutra testifies to the same facts. He states that he had the title in his possession for more than a month, when, on being repaid, he returned it to Diaz, who stated that he wanted it for the purpose of selling the land to Thomas O. Larkin. That Bernardino Soto and Gabriel de la Torre were present, and informed him where the Punta de Lobos was. Gabriel de la Torre gives substantially the same account, except that he denies having told Dutra where the land was situated, as he did not know, nor did he hear Soto tell Dutra its situation.

It is further shown by the claimants, that on the nineteenth of September, 1846, Benito Diaz conveyed all his interest in the land to Thomas O. Larkin. The deed to the latter is produced. I do

not understand it to be disputed that at that date the grant was in existence. It further appears by the evidence of Col. Stevenson that Pio Pico finally left the country on the eighth of August. The hypothesis of fraud, therefore, supposes that the grant was signed at some date between the twenty-fifth of June and the eighth of August.

The United States have produced as a witness, Vicente Gomez. He swears that he, Benito Diaz, and Cayetano and Luis Arenas, were present when Pio Pico signed the grant. That it was signed after the Americans took possession of Monterey.

To rebut this testimony the claimants have examined, since the appeal, Cayetano and Luis Arenas.

Both of these witnesses deny having been present on the occasion referred to by Gomez. They state that they never saw Pico sign any papers after the seventh of July; that they never saw the title to Punta de Lobos, and do not even know where the land lies.

José L. Lueo and Juan M. Luco, witnesses called by the claimants, swear that Gomez, in conversation with them, denied all knowledge of the Punta de Lobos grant, and that he had given the testimony contained in his deposition. José L. Lueo also swears that Gomez' character for veracity is bad, and that he would not believe him on oath in matters relating to land titles.

Jas. C. Crane and John H. Watson are the only remaining witnesses introduced by the United States. These witnesses swear that in the spring of 1851, Benito Diaz stated to them that the grant of Punta de Lobos was made after the hoisting of the American flag at Monterey, and was antedated.

These declarations, if made at all, were made several years after Benito Diaz had parted with all his interest. No previous inquiry as to them has been made of Benito Diaz, when examined as a witness. I know of no rule of law by which the testimony could be admitted.

Benito Diaz was, however, reexamined in this Court, and stated, with reference to these declarations, that he knew Crane and Watson; that he never had any conversations with the latter, as he did not speak Spanish, except on one occasion when Crane acted as interpreter; that he had always told Crane that the title was good,

except that once "after Gomez had made statements about the title, Crane asked him if it was not made in August, to which he laughingly replied: Yes, yes, just as Gomez says."

The above comprises all the testimony adduced by the United States in opposition to the claim.

No attempt has been made on the part of the United States to show the signatures of Pico and Moreno to be forgeries. It is insisted, however, that the grant is antedated, and that it was in fact signed after the conquest of the country.

It is stated, as we have seen, by Benito Diaz, that the grant was written by him in San Francisco, on the twentieth or twenty-first of June, and sent by a courier to the Governor for signature.

On examining the original grant on file in the Surveyor General's office, we find that the date is in writing and not in figures, and the words "veinta y cinco de Junio," are obviously written by the same hand, with the same ink and at the same time as the rest of the instrument. There can be no doubt that Benito Diaz, or whosoever drew the grant, filled in the date at the time he drafted the instrument. No trace can be discovered of any blank having been left to be filled up when the grant was signed, and the writing and the color of the ink are palpably different from those of the signatures of either Pico or Moreno.

The certificate stating that a record of the title has been taken "in the corresponding book," is also in the same hand-writing as that of the body of the grant. The statement of this fact must therefore have been made by Diaz, like the insertion of the date, by *anticipation*. If the statement be true, where is the "corresponding book?" It has not been produced. If Moreno can remember that he signed the grant on the twenty-fifth of June, on the road at a distance from his office, he could doubtless remember the fact that he recorded it, and perhaps could explain how it happened that when accompanying the Governor on a distant journey, at a period of great public disorder, he took with him a book of records usually kept among the archives of his office. He might at least tell what has become of the book. On these points no explanation is offered by the claimants; on the hypothesis of fraud, however, a natural explanation suggests itself.

When the grant was fabricated, it was not considered that it could be proved that Pio Pico was not in Los Angeles at the date of the grant. The certificate of record was accordingly added and Morena's signature procured. When, however, it became necessary to allege that the grant was signed upon the road, to meet the objection that Pico was not in Los Angeles at its date, it was too late to alter or erase the certificate of record, notwithstanding that the making of such a record was inconsistent with the other circumstances under which it was requisite to show the grant to have been executed.

If then the date was affixed to the instrument before it was signed, it affords no evidence of the true time of its signature.

Matias Moreno, however, testifies "that he saw the grant on the twenty-fifth of June, when he signed it." The witness does not explicitly state that he signed the grant on the day that it bears date. He uses the expression above quoted, which was doubtless intended to convey that idea.

Pico himself was also examined, but he answers with singular reserve. On being asked if the signatures were genuine, and the instrument executed for the purposes therein mentioned, he merely replies "I believe the signatures are genuine." He does not state when they were affixed, nor for what purpose.

If the grant was signed on the twenty-fifth of June, the coincidence is extraordinary. It is, of course, not impossible, but it is in the highest degree improbable, that Benito Diaz, when he drew it in San Francisco on the twentieth or twenty-first of June, under the expectation that it would be signed at Los Angeles, should have guessed so accurately the day on which his messenger would find the Governor, and the day on which the latter would sign the grant. And particularly, when the Governor was in fact met upon the road at a considerable distance from the place where Diaz expected he would be found.

It is also strange that the grant, drawn at San Francisco on the twentieth or twenty-first of June, should have reached the Governor on the twenty-fifth, on the road between Santa Barbara and Santa Buena Ventura, a journey which must usually have required seven or eight days to accomplish, while it was not returned to the

grantee until the fourth or fifth of July, and this, too, at Monterey, at least two days journey nearer than San Francisco to Santa Barbara.

In this connection the nature and subject matter of the grant deserve attention.

In his petition to the Governor, Benito Diaz, after specifying the boundaries of the tract selected, adds—"observing that the ruins of the presidio of San Francisco, and the castle, which are within the tract, shall remain exempt from the petition, unless it may be that the Governor may choose to grant me the said ruins, promising, if that be done, to build a house," etc.

By the marginal order of May 28th, the Governor refers the petition, not only to the respective judge, but to the Military Commander for his opinion as to what may be convenient. The judge reports that the land is vacant, but as to the military points he can give no opinion, not knowing their *ejidos* or the lands appertaining to them.

The Military Commander reports in favor of granting the land "not including in the concession the two military points of the presidio and castle which are included in the petition."

The grant, after reciting that the petitioner had applied for the land called Punta de Lobos, concedes to him in full property "the before mentioned land—*el espresado terreno*." And the third condition states its exterior boundaries without reserving the military points within them. He thus grants not only the fortifications, contrary to the advice of the military authority whose opinion he had solicited, but he does not even insert the condition proposed by the petitioner himself, viz: that a house should be built for the government if the ruins were granted.

But the question arises—Had the Governor authority to make such a grant?

The second article of the law of 1824, declares the object of the law to be "those lands of the nation which not being private property nor belonging to any corporation or town, may be colonized." The intention of Mexico obviously was to promote the settlement of the country, by the gratuitous distribution of its vacant and unappropriated public land. We accordingly find that the principal in-

formation desired by the Governor, and communicated by the "informes," is whether the land solicited is "valdío," or vacant. If then the law and the Governor's authority only extended to "vacant" lands, it must be admitted that the sites of fortifications, occupied as such, are not within the law. It is, however, urged that these fortifications were abandoned and gone to decay, and that their sites had thus reverted to their previous condition of vacant lands. That they had no garrisons, is admitted; but the extent to which the buildings had fallen into decay, is not clear. It is not disputed that some eight or ten cannon remained at the fort, and that its walls as well as the buildings at the Presidio, since used as barracks by the United States, must have existed in a greater or less degree of preservation. But the question, whether these points were occupied or vacant, does not depend on whether garrisons were maintained in them, or the degree of preservation of the structures. If the place had been selected and appropriated by the Government as a military post—if considerable and expensive structures had been made for military purposes, the occupation of the land would seem to be complete, though every soldier had been withdrawn and the works themselves fallen into decay.

The fifth article of the Law of 1824 provides that the Government of the Federation may make use of any portion of the lands of the nation to construct warehouses, arsenals, &c., it may deem expedient, with the consent of Congress. It is to be presumed, therefore, that the appropriation and occupation of these military sites must have been made by the Government of the Federation. Until, then, the Federal Government determined to abandon them, no Governor of a department would be at liberty to treat their sites as vacant public land, because, through accident, neglect or the disturbed condition of public affairs, their garrisons might have been withdrawn, or the fortifications in some degree dismantled. The fort or castle occupied a position unmistakeably indicated by nature as the site of a defensive work for this harbor. It had been selected as such, perhaps, by the Spanish conquerors, and the United States have since, at the same point, erected the most extensive fortifications on this coast. It is not conceivable that under a general power to distribute vacant lands to actual settlers, it could have

been intended to clothe the Governor with discretionary power to give to a private individual a spot so necessary to the national defense, which had long been used for the purpose, and on which the cannon of the nation still remained.

If, then, we are right in supposing that the Governor had no authority to grant the fortifications of the country to private individuals, the fact that this grant purports to do so becomes a significant and suspicious circumstance. Indeed, it would seem incredible that a Governor, intending *bonâ fide* to exercise the authority entrusted to him for the good of the nation, should, at a time of war and imminent peril, have consented to grant to a private person the site of so important a fortification; that he should have done this on the road where, by accident, both he and his secretary were found; that he should have signed a paper previously drawn up for him by the grantee, and dated at a place, and, in all probability, at a time different from those at which it purported to be executed; that he should have done this contrary to the advice of the military authority whose opinion he had solicited, and without securing the important benefits to the Government which the petitioner had himself offered, viz: the erection of a house; and finally, that no record or official note of so important a transaction should anywhere be found in the archives of the Government.

Had Pio Pico himself given any satisfactory explanation of these circumstances, our suspicions might have been dispelled. But the witness mentions no one of the facts sought to be established by the claimants, except only that the signatures are genuine, and of this he only expresses his "belief."

If the date was affixed to the grant by Dias himself, when he drew it on the twentieth or twenty-first of June, Moreno's testimony that he signed it on the twenty-fifth must be false, unless we suppose an almost impossible coincidence to have occurred.

If Moreno, the Governor's secretary, has sworn falsely, the whole case is tainted by the fraud.

The grant appearing to have been dated by Dias himself, before its execution, Moreno's testimony being rejected, and the Governor being silent on the subject, the only evidence to show its execution before the change of sovereignty is that of Dias himself, Bernadino Soto, Manuel Dutra and Gabriel de la Torre.

No one of these witnesses pretends to have seen the grant before the fifth or sixth of July.

Dias, in his first deposition, states that he received the grant two or three weeks after its execution. It is only when examined in this Court, that he remembers having received it on the fourth or fifth of July, within nine or ten days after its execution.

Gabriel de la Torre, Dutra and Soto swear that they saw the grant a few days after the taking of Monterey, when Dutra was asked to lend forty dollars upon it. The only witnesses who saw it on the fifth or sixth of July are Dias and Soto.

The conclusion, then, that the grant was executed before the seventh of July, must be founded on the testimony of Dias and Soto alone.

We are deeply sensible of the fact that their testimony is positive and circumstantial; that Soto's character has not been impeached, and that the statement of Gomez, that Pico signed the grant in August, in the presence of himself and the two Arenas—is contradicted by the latter—that Gomez' character is impeached—and his testimony, therefore, entitled to but little consideration.

But the inquiry recurs: Can we, on the faith of Dias' and Soto's testimony alone, confirm this claim, under all the circumstances? We are of opinion that we cannot.

In the investigation of this class of cases, we have been painfully impressed with a sense of the entire unreliability of many of the regular and, so to speak, professional witnesses by whom they are supported, and, in some rare instances, attacked. When, therefore, a grant is presented, of which the archives contain no record, for land of which no possession has been taken, and to which no claim of ownership has been asserted during the former Government, the suspicion that it has been fabricated since the change of Government is irresistibly suggested. That such has been the case, in some instances, is notorious.

That such a fraud was easy while the former Governors of this country were alive and accessible, is obvious.

When, therefore, the grant is like the present, one of an extraordinary character—when it appears that the Governor, even if he did not exceed his authority, acted with entire disregard of the

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interests of his country—we have a right to demand a full and satisfactory explanation of the circumstances. When we find Moreno testifying to a fact which is in the highest degree improbable, the Governor not only withholding explanation, but silent or evasive as to the real point in controversy—the grantee himself giving a loose and inaccurate statement of the time when he received the grant, although four years afterwards, the date and the circumstances are fresh in his memory—when, in addition to all this, we consider the notorious facility with which testimony like that in support of this claim can be procured—we are unable to resist the conclusion that the *bonâ fide* character of this grant has not been established.

Whether the bare reception of a paper purporting to convey a title at a time when the grantor had lost all practical dominion over the land conveyed, when no possession was taken, or could have been taken, by reason of the subversion of the grantor's authority by a conquest of the country, conveys such a right of property as the conqueror, by the principles of public law, is bound to respect, may be doubted. That question it is not now necessary to discuss.

JOSEFA CARRILLO DE FITCH *et al.*, CLAIMING THE RANCHO
PARAGE DEL ARROYO, APPELLANTS, *vs.* THE UNITED
STATES.

THIS claim seems to have been abandoned.

Claim for a half league of land in San Francisco county, rejected by the Board, and appealed by claimants.

E. O. CROSBY, for Appellants.

P. DELLA TORRE, United States Attorney, for Appellees.

The grant in this case purports to have been made July 26th, 1846. No evidence in support of the claim was offered to the

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Board, except the deposition of Pablo de la Guerra to the effect that the signatures are genuine.

The original grantees were Enrique Domingo Fitch and Francisco Guerrero.

There is no evidence of the decease of either of these persons, or any connection or privity of estate between them and the present claimants. The claim was rejected by the Board for this reason in November, 1854. No attempt has been made to supply the omission in this Court. The claim in fact seems to have been abandoned.

It is not necessary to consider the other objections which might be urged to its validity.

The decree of the Board must be affirmed.

EXECUTOR AND HEIRS OF AGUSTIN DE YTURBIDE,
CLAIMING FOUR HUNDRED SQUARE LEAGUES OF LAND IN UPPER
CALIFORNIA, CLAIMANTS, *vs.* THE UNITED STATES.

THE claimants omitted to file with the Clerk a notice of their intention to prosecute the appeal from the decision of the Board of Land Commissioners, within the six months prescribed by the Act of 1852: *Held*, that the Court was without jurisdiction over the cause.

This claim was rejected by the Board.

CROCKETT & PAGE and SLOAN & HARTMAN, for Claimants.

P. DELLA TORRE, United States Attorney, for United States.

The claim in this case having been rejected by the Board, the transcript was duly filed in the Clerk's office in this Court on the second of June, 1855. No notice of appeal was filed by the claimants within six months thereafter as required by law, but on the 30th of April, 1856, a motion was made by the claimants' counsel for leave to file such notice *nunc pro tunc*, and to prosecute the appeal.

No order or decree dismissing the appeal had been obtained by the District Attorney, and the circumstances attending the omission to file the notice were such as to have induced the Court at once to grant the application, if it had possessed any discretion on the subject. Much doubt was however entertained by the Court whether it could on any showing disregard what seemed the positive requirements of the statute.

The motion was therefore, with the acquiescence of the District Attorney, granted, in order that if the Court had any discretion on the subject it might appear to have been exercised in favor of the application, and in order that testimony on the merits might be taken and the whole case submitted to the Supreme Court in such a form as to enable them finally to dispose of it when for the first time brought before them.

It was however expressly mentioned, that the point as to the jurisdiction of the Court to grant the motion was reserved until the final hearing, and that if the Court should then be of opinion that it had no power to allow a notice of appeal to be filed after the expiration of six months from the filing of the transcript, the claim would be rejected for want of jurisdiction. This question must therefore be now disposed of.

By the twelfth section of the Act of 1851, it was provided, that to entitle "either party to a review of the decision of the Board of Commissioners, notice of the intention to file a petition in the District Court shall be entered on the journal of the Board within sixty days after the decision of the claim has been notified to the parties, and the petition shall be filed in the District Court within six months after the decision has been rendered."

The mode above prescribed for removing the cause was altered by the Act of 1852. In that law it is provided "that the Commissioners shall cause a transcript of their proceedings and decision to be filed with the Clerk of the District Court, and that the filing of such transcript shall *ipso facto* operate as an appeal for the party against whom the decision shall have been rendered; that if such decision shall be against the private claimant it shall be his duty to file a notice within six months thereafter of his intention to prosecute the appeal, and if the decision shall be against the United

States, it shall be the duty of the Attorney General, within six months after receiving a copy of the transcript, (directed by the Act to be sent to him by the Board) to cause a notice to be filed with the Clerk aforesaid that the appeal will be prosecuted by the United States. And on the failure of either party to file such notice with the Clerk, the appeal *shall be regarded as dismissed.*"

The Acts of 1824, 1828 and 1830, relating to lands in Missouri, Arkansas and Florida, provided that all claims within their purview should be brought before the Courts authorized to adjudicate upon them, within a specified period. Under these acts, it has always been held that the Courts had no jurisdiction over petitions not presented within the time limited.

In *United States v. Marvin* (3 How. 623) it is said by the Court : "The policy of Congress was to settle the claims in as short a time as practicable, so as to enable the Government to sell the public lands, which could not be done with propriety until the private claims were ascertained. As these were many in number, and for large quantities, no choice was left to the Government but their speedy settlement and severance from the public domain. Such has been its anxious policy throughout, as appears from almost every law passed on the subject."

Similar observations are repeated in *Villabolas v. The United States*, 6 Howard, 91.

In furtherance of this policy it was provided by the Act of 1851, that all lands, the claims to which shall not be presented to the Board within two years from the date of the act, shall be deemed part of the public domain, and after the decision, though an appeal was allowed, the party to be entitled to it was required to file a notice of his intention to prosecute within sixty days after the decision has been notified to him, and to file his petition in the District Court within six months from the date of the decision.

These provisions were clearly limitations. Nor will it be contended that under them either party could file a petition or otherwise prosecute his appeal after the expiration of the six months prescribed by law.

The alteration in the mode of taking the appeal made by the law of 1852 above referred to, had for its principal object to relieve

the claimants of the burden and expense of procuring copies of the transcripts to be made, and to allow to the Attorney General a longer time to determine whether an appeal should be prosecuted than the sixty days within which the notice was required to be entered on the journals of the Board. It was accordingly provided that the Board should cause the transcripts to be made out and filed in the District Court, and that such filing should *ipso facto* operate as an appeal. As, however, Congress did not mean to enact that every case should be appealed, whether the party against whom the decision had been made desired it or not, and as the provisional appeal could not continue forever, the same period for filing the notice of an intention to prosecute it, or to profit by the appeal which had thus by operation of law been taken, was prescribed, as had previously been assigned for filing the petition in the District Court.

It was therefore not only made the duty of the Attorney General or the claimant to file such notice within the time limited, but it was provided that on the failure of either party to file such a notice, the appeal "should be regarded as dismissed."

We think that by these provisions Congress intended to prescribe a rule of action to the Court, which it is not at liberty to evade or to disregard. That some limitation on the rights of appeal to a definite period is necessary in all cases, is obvious. That it is peculiarly necessary in this class of cases, and that it has been restricted within limits much narrower than those allowed in ordinary suits by all the Acts of Congress previously passed, is equally evident. When, therefore, we find the Act of 1851 allowing a time for appeal still shorter than that prescribed in previous acts, it is difficult to believe that Congress, by the amended Act of 1852, intended to depart from a policy so well settled, and so necessary, and to permit the Court to allow the appeal to be prosecuted whenever in its judgment the party desirous of appealing might sufficiently excuse his omission.

If it be said that hard cases may arise, and that such a power might with safety and propriety be committed to the Courts. It may be answered—1st, that hard cases must always occur under any general rule of law, however beneficent or necessary it may be;

and 2d, that Courts have never felt themselves at liberty to dispense with express provisions of law, whether in statutes of limitations or in those regulating appeals or in others, upon any equitable ground. To this effect is the language of the Supreme Court in *Saltmarsh v. Tuthill*, (12 How. 389) and in *The Bank of Alabama v. Dalton* (9 How. 522) the Court decided that it could not engraft on a statute of limitations an exception not found therein, however reasonable and just it might be.

It is argued that the case at bar is to be distinguished from those under the statutes of 1824, 1828 and 1830, inasmuch as the latter limited the time within which the petition was to be filed, which was the commencement of the suit; whereas, by the Act of 1852 the filing of the transcript *ipso facto* constitutes an appeal. The Court therefore has jurisdiction of the suit, and the notice is not necessary to confer it. Hence, it is argued, the filing of the notice is not indispensable to the retention of the cause in Court after it has been properly brought there.

It is true that the filing of the transcript operates as an appeal, and the cause is properly in Court. But the appeal so taken and the jurisdiction so acquired, are obviously but temporary and provisional. The very law which declares that the filing of the transcript shall operate as an appeal, prescribes the period and the conditions of its continuance in Court, and though the appeal is pending and the Court has jurisdiction for six months, yet if during that time no notice be filed, the same law requires that the appeal shall be deemed to be no longer pending, or that it shall be regarded as dismissed. The law which gave vitality to the appeal during the period limited, peremptorily deprives it of life unless certain conditions necessary to continue its existence be fulfilled.

Such we consider would be the construction of statutory provisions like these, even if they related to ordinary suits before a Court of general and superior jurisdiction.

But they should *a fortiori* be so construed in this case, where the Court has but a special and limited jurisdiction derived from the statute alone, and to be exercised, like the jurisdiction of an inferior Court, only in the manner and to the extent prescribed by the statute.

The claimants' counsel have adduced in support of their construction of the statute, an illustration from the Practice of the Court of Chancery in New York. It was by the rules of that Court provided, that if the plaintiff did not reply within a certain time, "he should be *precluded* from replying." The Court, however, under special circumstances, grants leave to file a replication.

But this rule is obviously a mere rule of practice framed by the Court for its own government. Such rules, even when prescribed by a superior tribunal, the Court has the power to modify to meet the exigencies of special cases—a power which it does not possess over the positive requirements of a statute. (12 Peters, 472; 12 How. 389; 9 Id. 522.) Moreover, the practice under this rule shows that it was merely intended to preclude the right of replying as of course, but that it was not intended to take away the right in all cases. The Court which made the rule expounds its intention and meaning, and establishes the practice under it.

But if the views heretofore expressed be correct, the provision in the Act of 1852 is not to be limited to a rule of practice established by the Court, but is a statute of limitations enacted by the Legislature. It prescribes a period within which the party is to adopt the appeal which the Government has provisionally taken for him, and which is allowed to be pending and awaiting his action for a specified time. His failure to adopt this appeal by filing the required notice, puts him in the same position as if he had been himself required to take it within the same period, and had omitted to do so.

We are very sensible of the hardship of this and similar cases. We regret that we have no power to relieve them.

Under the construction we have felt compelled to give to the statute, we have no alternative but to dismiss the claim.

Pico et al. v. United States.

FRANCISCO PICO *et al.*, CLAIMING THE RANCHO LAS CALA-
VERAS, APPELLANTS, *vs.* THE UNITED STATES.

ALTHOUGH the final grant in this case was not issued until the seventh of July, 1846, which date the political branch of our Government seems to have indicated as the period of the actual conquest of California, yet, the Governor having ordered the title to issue on the eleventh of June, 1846, the claim presents an equity which must be respected by the United States.

Claim for eleven leagues of land in Tuolumne county, rejected by the Board, and appealed by the claimants.

STANLY & KING, for Appellants.

P. DELLA TORRE, United States Attorney, for Appellees.

The expediente produced from the archives in this case contains the following documents :

1st. A petition by the claimant to the Justice of the Peace and Military Commander, Don Juan A. Sutter, requesting a favorable report for the grant of the land mentioned in the petition and delineated on the map which accompanied it.

This petition is dated May 1st, 1846. In the margin of this petition is a certificate by Sutter, dated on the same day, that the land solicited is vacant.

2d. A petition by the claimant to the Sub-Prefect of the Second District, soliciting his report to accompany the representation and diseño previously presented to the judicial officer of said establishment, from whom the petitioner had already obtained a certificate, so that further proceedings may be taken with a thorough understanding of the matter. This petition is dated May 8th, 1846.

In the margin is a note by Francisco Guerrero, dated May 12th, 1846, in which he declines to act in the matter, not having the necessary authority, and he refers it to the Prefect of the Second District "to resolve what he shall deem proper."

3d. A report of the Prefect, Manuel Castro, dated May 18th, 1846, in which he states, that in view of the petition, the report of the Sub-Prefect, and that of the Judge of Nueva Helvetia, the qualifications of the petitioner, and everything else, he is of opinion

that the said party may be granted the ownership of said land, "if it shall appear convenient to your Excellency."

4th. An order of the Governor as follows:

"In view of the reports contained in this expediente in favor of the interested party, let the title issue to secure the ownership, without prejudice to what may belong to the bordering land owners.

"Angeles, June 11th, 1846."

"PICO."

The claimant has also produced the final title issued in pursuance of the above order. It is dated, however, on the twentieth of July, 1846, about thirteen days after the capture of Monterey.

The claim was rejected by the Board, on the ground that the final title issued after the occupation of the country by the American forces.

It must be admitted, that after California was subjected to the American arms, no Mexican authority could do any act which would affect the rights of the United States to the public property. (*The United States vs. Fremont*, 17 How. 563.)

"The civil and municipal officers who continued to exercise their functions, did so under the authority of the American Government." (*Ib.*)

It is not, however, easy to determine the precise period at which the Mexican authority ceased *de facto* to exist, and at which California must be deemed to have been subjected to our arms.

The political branch of our Government seems to have indicated the seventh of July, 1846, the date of the capture of Monterey, as the period at which the conquest is deemed to have been effected. (Act of 1851, sec. 14.) It is to be considered, however, that Los Angeles, the capital of the country, was not taken until some months later. The Governor continued in the exercise of his functions until August, and regular sessions of the Departmental Assembly seem to have been held for some time afterwards.

But assuming the earlier date as the period when the powers of the Mexican functionaries ceased, the question arises, whether the circumstance that the final document issued thirteen days after taking of Monterey is a fatal objection to the claim.

From the expediente already referred to, we find that as early

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as the month of May, all the proceedings were had preliminary to the issuance of the final document. A petition was presented with favorable reports and accompanied by a diseño, and the Governor, on the eleventh of June, accedes in effect to the petition, and orders the final title to be issued to secure the ownership.

So far as the Governor's discretion was concerned, he had fully exercised it, and had determined to grant the land. If the disturbed state of public affairs, or the neglect of the Secretary, prevented the performance of the merely ministerial act of drawing out the title in form and presenting it for signature to the Governor, it seems to me that such an omission ought not to invalidate the inchoate or incipient title which the petitioner had acquired by the previous proceedings.

In the case of *Rafael Sanchez vs. The United States*, which depended on the same question as that raised in this case, the Judge of the Southern District of this State decreed in favor of the claimant. That decision has been acquiesced in by the United States and the appeal to the Supreme Court dismissed. In the reasoning and conclusions of the Court in that case I entirely concur, and am of opinion that the petition, the favorable reports, and the order of the Governor directing the title to issue, followed by the actual issuance of the title at a period when the Governor could hardly have anticipated the consequences of the capture of Monterey, and certainly before he could have been fully satisfied that the sovereignty had finally passed away from Mexico, constitute an equitable title which the United States must respect.

A decree of confirmation must be entered.

THE UNITED STATES, APPELLANTS, *vs.* MARY S. BENNETT, CLAIMING TWO TRACTS OF LAND IN SANTA CLARA COUNTY.

WHERE a decree, through mistake or accident, does not express the judgment of the Court, it may be corrected on motion made after the expiration of the term at which it was enrolled.

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This was a motion to amend the decree of confirmation so as to conform to the decree of the Board of Commissioners.

P. DELLA TORRE, United States Attorney, and WILLIAM BLANDING, for the Motion.

VOLNEY E. HOWARD, against it.

When this cause was called in its order on the calendar, the District Attorney stated to the Court that he had no objection to make to the affirmance of the decree of the Board and to the confirmation of the claim. An order confirming the claim was thereupon entered upon the minutes, and the parties were directed to draft the decree and present it to the Judge for signature, first submitting it to the District Attorney for examination.

A draft decree was accordingly presented to the Judge, with an endorsement thereon, signed by the District Attorney, that the same was correct. It was thereupon signed by the Judge without examination, and in entire reliance upon the consent of the District Attorney that the decision of the Board should be affirmed, and his certificate that the form of the decree was correct.

Notice having been received from the Attorney General that the United States would not prosecute the appeal from the decision of the Board, and a decree in this Court having been made as above stated before the reception of the notice, the District Attorney entered into a stipulation and consent that no appeal should be taken from the decree of this Court, and that the claimants might proceed as under a final decree.

After this stipulation was entered into, it was discovered by the District Attorney that, through error or accident, the description of the land contained in the decree of this Court was widely different from that contained in the decree of the Board; and that the land confirmed by this Court is of larger extent and different situation from that confirmed to the claimants by the Board—the claim to which alone he intended to consent should be affirmed, and the United States had consented not further to litigate.

A motion is now made to amend the decree signed by this Court,

as above stated, so as to make it conform to the decision of the Board. It is resisted, on the ground that the term having expired, the Court has no power to alter or amend its final decrees.

If the application were intended to procure a revision and correction of any errors, either in law or fact, or to change opinions once given, or to obtain a new decision, it would of course be denied. Even if a Court had no jurisdiction over the cause, the judgment is binding until reversed on error. (6 How. 31.)

But in this case, so far as the Court can be said to have passed at all upon the questions submitted to it, its judgment and intention were that the decision of the Board should be affirmed. It certainly cannot be said to have intended to depart from that decision by confirming to the claimant another and a different tract.

Such was the obvious effect of the first order of confirmation directed in open Court to be made, and such was supposed to be the effect of the decree signed on the faith of the District Attorney's certificate of its correctness. If, then, through accident or the mistake of the District Attorney, the decree approved by him and signed by the Court does not describe the land which he was willing should be confirmed, and which the Court supposed it was confirming, it would seem to present a case of mistake which the Court after enrollment has the power to correct. In so doing it makes no new decree, nor does it review or reverse any former judgment, nor make a new decision on points already passed upon. It merely makes the written decree conform to what was in fact the judgment of the Court, and enters a decree now, such as it intended to enter then.

The case of *Marr's Administrator vs. Miller's Executor* (1 Heming & Munf. 204) is directly in point.

In that case a decree was improperly entered at a previous term by the inattention of counsel who drew it. It was sought to be amended on motion :

Per Curiam—"The practice of this Court heretofore and of the Federal Courts in this place has been inquired into, and it appears that in all cases where, by *mistake*, an entry has been made, it has been rectified on motion. And where any error has been committed by the officers of the Court, or gentlemen of the bar, it has.

been corrected on motion. Let the decree be set aside and entered now as it should have been."

A similar power appears to have been exercised by Lord Hardwicke, in *Kemp vs. Squire*, (1 Vesey, Jr. 205) and in other cases cited in the brief on the part of the United States.

On the whole, we think that the case presented is one where the Court has the authority to amend its decree; and that a decree should be entered *nunc pro tunc* affirming the decision of the Board, and confirming the claim of the appellees to the land as therein described.

It should, perhaps, be observed that it is contended by the counsel for the claimant that the decree entered in this Court does not substantially differ from that of the Board. It is enough to say that the description of the land is entirely different, and designates boundaries not mentioned either in the original petition of the claimant, or in any of the documents presented by her. It is apparent that the land confirmed by the decree of this Court *may be* different from that confirmed by the Board. The possible existence of such a discrepancy would seem to be enough to warrant the amendment of the decree, so that it may conform to the decision intended to be, as expressed in the decree itself, "in all things affirmed."

THE UNITED STATES, APPELLANTS, vs. JOEL S. POLACK
et al., CLAIMING THE ISLAND OF YERBA BUENA.

WHERE the archives contain no evidence or trace of the existence of a grant, the Court will demand the fullest and most satisfactory proofs of possession and occupation during the existence of the former Government, under a notorious and undisputed claim of title; and clear and indubitable evidence of the genuineness of the grant produced.

Claim for the Island of Yerba Buena, or Goat Island, situated in the Bay of San Francisco, confirmed by the Board, and appealed by the United States.

P. DELLA TORRE, United States Attorney, and WILLIAM BLANDING, for Appellants.

E. L. GOOLD, for Appellees.

The title of the claimants is derived from a grant alleged to have been made by Governor Alvarado, Nov. 8th, 1838, to Juan José Castro.

The authority under which the Governor acted is a dispatch from the Secretary of the Interior to the Governor of the Californias, dated July 20th, 1838, directing him to grant the islands on the coast in private ownership.

There can be no doubt of the Governor's authority to make the grant. The only dispute is as to its genuineness.

Neither the petition of Castro nor any other document is produced from the archives. So far as appears, the records of the former Government do not contain the slightest trace of the alleged transaction. Even the grant itself is not produced, and the claimants rely upon an alleged copy recorded in the Recorder's office of this city in 1849.

To prove the existence and genuineness of the original, the claimants have introduced a large number of witnesses. The United States have, on the other hand, sought to show that the grant was made by Alvarado, in the city of San Francisco, in the year 1848, and antedated.

Juan José Castro, the original grantee, testifies that he presented a petition to the Governor in November, 1838, at Santa Barbara, and that the grant was issued in that month; that he put sheep, goats and hogs upon the island, and retained possession of it until 1848, when he sold it to Jones for \$1,000, which was paid to him in the presence of one G. H. Nye; that Alvarado and Maria C. Miranda were present when the deed was made. He adds, "if the grant was not recorded in the archives, it was the fault of the officers, not mine."

The witness further states, that at the time of the sale to Jones, he delivered to the latter the original petition and grant, and all the papers relating to the title. It may be observed, in passing, that it is strange that the grantee should have had possession of the original petition—a document which was usually retained by the Government, and constituted a part of the expediente on file in the

archives. It is also strange that Jones, when he delivered in 1849 (not 1848, as stated by Castro) his papers to be recorded, should have omitted this document, so important to show the regularity of the proceedings.

Governor Alvarado testifies in positive terms that he made the grant in 1838. That the copy produced is a substantial copy of the grant made by him, and that he was present, together with J. B. R. Cooper and his wife, when Castro executed the conveyance to Jones.

Joaquin Castro, brother of the grantee, deposes that he saw the grant in the possession of the grantee in 1838 or 1839; that it was on common paper; that he read it, and that the paper produced is a copy of it substantially; that he saw his brother take some sheep in a boat to put them on the island, and that he saw the remains of a house he built there in 1843 or 1844.

José Castro testifies that he was at the office of Gov. Alvarado, in Santa Barbara, in 1838, where he accidentally saw lying on the table a grant which he examined, and found to be a grant of the island of Yerba Buena to Juan José Castro.

Jesus Maria Castro testifies, that in the year 1838 his brother Juan José, the grantee, went to Santa Barbara to see Gov. Alvarado, and when he came back he brought a concession for the island; that in 1839 he saw the paper in his mother's hands; that all the papers relating to their rancho were in a little box; that on looking them over, he saw amongst them the title to Yerba Buena. It was signed by Gov. Alvarado, but had no seal.

The witness states that he does not know whether his brother was in possession of the island when the Americans came; that he told him (witness) that he was going to put some sheep and hogs upon it.

Antonio Ortega testifies, that in 1840 he asked for the island of Yerba Buena, that Gov. Alvarado said he could not give it to him, as he had already granted it to Juan José Castro; that afterwards in 1840, he with one Guerrero were in the house of a man named Hinckley when Juan José Castro arrived in a boat from San José with some hogs; that Hinckley asked what he was going to do with them, to which he replied that he was going to keep them on the island; that Hinckley asked if he would sell the island; that he

said "Yes, for \$3,000;" that he heard Castro tell many persons he had a title to the island.

José Jesus Pico testifies that he was at the Mission of San Antonio in 1839; that Juan José Castro came from below and stopped at his house; that this was in July or August of 1839; that while talking together of lands and ranchos, Castro showed him a concession of the island of Yerba Buena; that he read it—it had no seal, it was on white paper, and had a written and not a printed heading, and was signed by Gov. Alvarado.

The above are all the witnesses who testify to having seen the grant before the date of the sale to Jones, Dec. 7th, 1848.

Henriques, who was the clerk to whom Jones, in 1849, delivered the grant and conveyance for record, testifies that he took particular notice of the paper; that it was Mexican paper and had a Departmental stamp.

Jesus Maria Castro says the title he saw had no seal.

Pico says it had no heading or *habilitacion*.

Juan José Castro says the copy produced is "an *accurate* copy;" but it has neither heading nor seal.

Joaquin Castro says it was on common paper. It could therefore have had neither heading or seal.

José Jesus Pico says it was on white paper, and had a written and not a printed heading. That he did not pay any attention to any other part than the Governor's signature, the name of the island and the heading of the paper, "as all concessions are alike."

And finally, Gov. Alvarado describes it as being issued "in the usual form."

These discrepancies are certainly calculated to suggest a doubt as to the reliability of the witnesses.

That this concession was not "in the usual form," or like all other concessions, is obvious. Its language and form are peculiar. It contains no conditions. It refers to the superior order of Aug. 18th, 1838, instead of the laws of 1824 and the regulations of 1828. It is not signed by the Secretary. It contains no direction "that a note be taken in the corresponding book." It has no seal, and has no heading or *habilitacion*, nor any note of the fact that common paper was used for want of stamped paper.

It is difficult to imagine how the witnesses, if they really saw and if they recollect accurately the contents of the paper, could have supposed such a concession to be like all others, or "in the usual form."

It is not meant, however, that there is anything conclusive in these inaccuracies. It is possible that they may have seen the title, remembered the names of the grantor, the grantee and the island, and have failed to remember precisely whether the grant had a seal or a heading. It is only when they undertake to speak positively on these points, and are found to be inaccurate, that a doubt as to their good faith is suggested.

The concession is dated November 8th, 1838.

Jesus Maria Castro testifies, as has been stated, that in 1838 his brother went to Santa Barbara to see Gov. Alvarado, and when he came back brought a concession for the island with him.

Gov. Alvarado swears that he did not see Castro in Santa Barbara at the time of making the grant. And José Jesus Pico says that in July or August of 1839, Castro stopped at his house at the Mission of San Antonio, on his way back from Santa Barbara, when he took out of his pocket, or out of the "traps" on his horse, the concession which he showed to the witness. The witness is positive as to the year 1839, and thinks that it was in July or August.

If then, as Jesus Maria Castro testifies, the grantee went to Santa Barbara to procure the grant in 1838, and of course before its date, Nov. 8th, and if he, on his return from Santa Barbara in July or August, 1839, showed it to Pico, he must have taken eight or nine months to perform the journey.

It would seem that so long an absence from his home could hardly have been forgotten by the grantee or his brothers; neither of them, however, mention this protracted absence, and Juan José Castro testifies that he presented a petition to Gov. Alvarado at Santa Barbara, in Nov., 1838, and that the land was granted at the date of the concession.

On the part of the United States, the principal witnesses are G. H. Nye and J. H. Brown.

Nye testifies that he saw Alvarado sign a paper which he understood to be a grant of the island of Yerba Bucna. That this was

done at the house of John Cooper, commonly called "Jack the Soldier;" that Cooper, Alvarado, Castro, Tolivia, Jones and witness were present; that he met Jones on the way to Cooper's, whither he (witness) was going to get a saddle; that he interpreted the document to Jones; that he made no remark about its being antedated; that Tolivia was asked to sign as a witness, but declined, saying he would not put his name to a false document; that but one document was made out on this occasion; that he was not asked to sign as a subscribing witness.

He further states, that after the conclusion of the business, Jones took the paper and went away; that when passing Leidesdorff's house, Jones rubbed his hands against an adobe wall, and then rubbed the paper between them, and that being asked the reason, he replied that it was to give the paper the appearance of age; that he accompanied Jones to his house, and soon after Alvarado, José Castro and the Alcalde came in and the transfer to Jones was made.

This witness was reëxamined in open Court, after the case was removed on appeal. He then stated that the paper to which he referred was a deed from Castro to Jones, and that he saw but one document, and that it was signed by Castro and Alvarado. Jones' name was mentioned in it. The witness repeats the account of Jones rubbing the paper with his hands to give it an ancient appearance, and adds that afterwards Alvarado and Castro met at Jones' house, when the Alcalde was called in, and the paper was signed by him. That the paper signed by the Alcalde was the same paper he had seen at Cooper's house.

Juan B. R. Cooper and Tolivia have both been called as witnesses by the claimants. Whatever the nature of the transaction at Cooper's house was, they are by Nye himself stated to have been present. In the copy of the deed to Jones, the name of Cooper and that of his wife, Cecilia Miranda, appear as subscribing witnesses. Cooper denies all knowledge of the ante-dated grant. He relates the circumstances of the interview, that some money was paid, and that he and his wife were called to sign a paper as witnesses; that he thinks it was a transfer or receipt for money.

Tolivia Fanfaran testifies that he was present at the sale of the

island by Castro to Jones; that Gov. Alvarado drew up a paper for the sale; that he was not asked to sign as a witness, nor did he decline to do so, as stated by Nye, and that the whole transaction, so far as he knew, was fair and honest.

The above testimony, with that of Alvarado, by whom, of course, the fabrication of the grant is denied, is all that relates to the transaction at Cooper's house. The theory of the United States rests on the testimony of Nye, uncorroborated, except indirectly by Brown, as will presently be noticed.

Captain Nye's testimony is by no means reliable. He is shown to have sustained injury by a fall which has seriously impaired his faculties; and the evidence by him is contradictory.

That a paper was drawn up and money paid by Jones at Cooper's house, is admitted. That Castro, Alvarado, Cooper, Nye, Cecilia Miranda and Tolivia were present, is also clear.

The deed to Jones, a copy of which is produced, bears the signatures of Cooper, Nye, Cecilia Miranda and Alvarado. Cooper and Alvarado both swear that they signed as witnesses the paper drawn up on the occasion referred to. And Nye himself says there was but one paper, and that it was signed by Alvarado and Castro. If this be so, the paper must have been the deed to Jones, and not the grant, which was necessarily signed by Alvarado alone. If Tolivia was asked to sign, as stated by Nye, it must have been the deed he was requested to witness, and not the grant. To ask him to witness a grant by the Governor, purporting to have been made ten years previously, would have been absurd. The only hypothesis on which we can suppose the grant to have been fabricated, as stated by Nye in his first deposition, is, that both the grant and the deed were drawn up at the same time. But Nye is positive that only one paper was drawn up, and this in his second deposition he states to be the deed. The story told by this witness is so confused, improbable and inconsistent, and it is contradicted by so many witnesses, that it is impossible for the Court to found a judgment upon the assumption of its truth.

J. H. Brown testifies that he kept the City Hotel in this city, and while behind the bar heard a conversation between Alvarado and Jones, which was interpreted by Captain Nye. That the

former agreed to make a title to Castro, by whom a deed should be given to Jones. That \$2,000 was at first demanded, and subsequently \$1,600 was agreed upon. That they agreed to meet at John Cooper's to prepare the papers. This witness describes with much particularity the place where the parties stood, and states that he attended on the Court compulsorily, and only in obedience to the subpoena; that he never had heard what Nye had testified; that he had stated the circumstances three years ago to one Thompson, who was purchasing an interest in the island.

Captain Nye, who was recalled after the deposition of Brown, emphatically denies ever having interpreted between Alvarado and Jones, as stated by Brown, as does also Governor Alvarado.

To corroborate the proofs of the existence of the grant before 1848, the claimants have called W. H. Richardson, who swears that in 1839 he heard that Castro had a grant for the island; and Albert Packard, who testifies that in 1847 he made a translation of a grant for Yerba Buena to one of the Castros, of which he believes the paper produced to be a copy.

Roland Gelston swears that in 1847 Jones asked him his opinion of its value, and stated that he had seen a grant for it to Castro.

Manuel Torres testifies that on his arrival here in 1843, he asked Juan José and Joaquin Castro to whom the island belonged, and that Juan José said it was his.

William Reynolds states that he was on the island in 1845, for the first time; that he there met with one Jack Fuller and Captain Hinckley; that Fuller said that the goats on the island belonged to him and one Spear, and they were on the island by permission of the owner, who was one of the Castros; witness does not recollect which.

William F. Swazey, Notary Public, states that in 1846 he knew Spear intimately; that he frequently talked of the goats he had on the island; and that he always was led to believe from his conversations with Spear, Fuller and others that the title to the island was in one of the Castros, and that such was his impression from general report.

On the other hand, Samuel Brannan, who came to San Fran-

cisco in 1846, Sherreback, who came here in 1841, Buckelew, Leavenworth and Captain Halleck testify that they never heard of the grant until 1848. Leavenworth was Alcalde up to August, 1849, and from his position may be supposed to have had some means of information.

Sherreback swears that on his first arrival in 1841 he had three or four men cutting wood on the island for his ship ; that there were no houses on it from 1841 to 1845 ; that he never heard of a title to the island until August or September, 1848, when Jones told him he had purchased it from Alvarado. The witness is positive that Jones said he purchased it from Alvarado, and that Castro's name was not mentioned.

He also states that he has seen Alvarado and Jones conversing together at his house several times, and that Nye interpreted between them—as Jones did not speak one word of Spanish.

That on one occasion Jones, Alvarado and Nye came out of the sitting-room together ; that Alvarado and Nye went away, but Jones stopped to pay for the refreshments they had had ; and that Jones then stated he had bought the island from Alvarado. If this account be true, it disproves the testimony of Nye and Alvarado, who both deny ever having had such interviews.

With regard to Jones' inability to speak "one word of Spanish," Sherreback is contradicted by Colonel Stevenson, who says that Jones spoke Spanish as well as Americans generally do ; that Jones was an educated man, etc.

George Patterson, who came to this country as a sailor before the mast, and now keeps a bar for retailing liquor, says that he was on the island in 1840 ; that from that time until 1848 he has been there repeatedly ; that he saw no cattle or cultivation of any kind, nor heard of any title until 1848 ; heard that Jones had a title, but never heard that Castro had ; knows that Castro had a title to an island adjoining the Peralta claim, called Brooks' Island ; that Fuller and Spear had goats on Yerba Buena Island ; and that in 1842 two men named Cozzens and Smith had sheep upon it. He never saw a hog upon it.

The credibility of this witness is somewhat impaired, however, by his statements on cross examination respecting his intimacy with

Castro, with whom he was evidently unable to communicate, as he cannot speak Spanish ; by his denial that Dowling, who is principally interested in defeating this claim, ever spoke to him about the testimony he was to give, although he was subpoenaed by Dowling, and has since been twice at his house ; and by his statement that when told the District Attorney wanted to see him, "he could not imagine what it was for," &c., &c.

Benjamin R. Buckelew testifies that at the end of 1848 or beginning of 1849, he had "a very distinct conversation" with Jones respecting the island. That he, witness, expressed, as he had previously done, his doubts whether Jones would get it acknowledged by the United States ; that Jones asked his reasons : to which he replied, that Jones and himself and all the old settlers knew it to be vacant land ; that Jones replied, "that would make no difference, as he had the title so fixed and fastened that the United States could not avoid acknowledging it." The witness adds that he frequently stated to Jones that if any one had a right to the island it was Fuller and Spear ; that they were in possession of it when he and Jones came to the country, and up to 1848. He further states that up to 1848, there were no buildings on the island.

Captain Halleck, who came to this country in 1847 as an officer of engineers, testifies that it became his duty to examine into and report upon the titles of places to be reserved for army and navy depots ; that after inquiry, he found no title or claim to Yerba Buena Island, and reported it as vacant. He also states, that in a conversation with Jones in 1850, he mentioned to him the reports that the title was made in this town in 1850, and antedated, and that he subsequently admitted the fact. This admission was made, however, after Jones had sold the island, and cannot be received in evidence.

The witness also states, on his cross examination, that amongst those of whom he inquired as to the existence of a title to the island, was W. A. Richardson ; and that from no source did he learn that any existed, nor did he hear of any until the end of 1848 or beginning of 1849. It is to be remembered that Richardson swears that Castro built a house on the island ; that he knew of the grant

to Castro ; and that he had Indians on it whenever he saw it—the last time being in 1841. A report made by Captain Halleck to Assistant Adjutant General Turner in 1847, is produced, in which Yerba Buena is mentioned, and a recommendation made that measures be taken to secure a title to it and other military points mentioned.

Yerba Buena is certainly not in this report stated to be “vacant public land.” If Capt. Halleck alludes to this report as that wherein he reported the island vacant, he is evidently mistaken. There is nothing however in the language of the report, or the suggestion that a title should be secured to the island, which is necessarily inconsistent with the idea on the part of the writer that the land was vacant.

But whatever errors the witness may have fallen into with regard to the contents of his reports, it is almost impossible that he should be mistaken as to the fact which he states so positively, that he did not hear of any title to the island. He swears that Richardson, then Collector of the port under the Americans, accompanied him and Capt. Warner to Angel Island, Alcatraz and Point Caballos ; and that he showed them where to land on Yerba Buena Island. As the object of these visits was to examine the sites, and the officers were directed to obtain information as to the titles of the various military points, it is impossible that they should not have been informed by Richardson of the title to Yerba Buena Island, if the latter had then heard of any ; nor is it conceivable that if informed by Richardson of Castro’s title, Capt. Halleck should have forgotten it. The conflict, therefore, between Capt. Halleck’s testimony and Richardson’s is irreconcilable, unless we suppose Richardson, when inquired of by Halleck, to have willfully and without an object stated that there was no title, knowing all the time that, as he has since sworn, Castro had a title, and had built a house for Indians upon it.

Much other testimony has been taken in this case which I do not think it necessary particularly to examine.

On reviewing the whole testimony, it is impossible not to feel that the claim set up is liable to the gravest suspicion.

The only witnesses who pretend to have seen the grant before

the American occupation, differ from each other on all points except those essential to be established, viz., the names of the grantor and the grantee and of the island. The existence of the grant seems to have been known to but a very small number of people, and to have been unknown to persons such as Buckelew, Sherreback, Brannan and Leavenworth, who would probably have heard of it.

The grant itself is not produced, that its genuineness might be judged of on inspection.

No trace of its existence, or of any application for it, appears in the archives.

There has been no occupation of the land, even if the claimants' witnesses are believed, which could be deemed to amount to a possession of it, or even to the assertion of a claim to it.

The claimants' own witness, Ortega, testifies that in 1840 he applied for a grant of the island, which Alvarado refused. Admitting this to be true, it proves that Ortega at least thought it vacant—an idea incompatible with the exercise by Castro of open and notorious proprietary rights.

If the only question in the case was—"Have the United States proved the grant to have been fabricated in Cooper's house in 1848," perhaps, under the proofs, the answer would be in the negative.

But amidst all the inconsistencies, contradictions and retractions in the depositions of Capt. Nye, he constantly adheres to the story of Jones rubbing the paper to give it an appearance of age. This story he repeats in his second deposition, although obviously willing at that time to qualify as far as possible his former testimony. It is told with a circumstantiality which gives to it the air of a narrative of an actual occurrence. The mental imbecility which the claimants have been at pains to prove, though it might lead him to confound one paper with another, would hardly allow him to invent such an incident, or after so long an interval to repeat the invention with so much accuracy.

Brown, too, corroborates his story. He is positive and clear, nor has his character been impeached.

That Alvarado, Castro, Nye and Jones were present at the hotel, though positively denied by Alvarado, is testified to by Sherreback;

and the suggestion that their conversation might have related to the mistaken date of the superior order under which Alvarado acted, and which was misunderstood, or has been misrepresented by Brown, admits that Alvarado has sworn falsely in denying that such interviews ever took place.

It seems to me that the case is one in which the Court should require, before pronouncing in favor of the claim, either record evidence from the archives of the former government, or at least that proof of the genuineness and date of the grant afforded by a notorious and unequivocal occupation of the land and the assertion of a right of ownership to it.

It is not pretended, or at least no proof whatever has been offered to show, that an expediente of the proceedings with reference to the grant ever existed. The petition itself was, if Castro is to be believed, delivered first to him, and then by him to Jones. It is unaccountable that it should not have been recorded with the other papers.

The book mentioned in Capt. Folsom's deposition as having been burnt, contained merely a note or list of titles. No evidence is offered that this grant was among the number. Had a note been taken of it in the "corresponding book," a memorandum to that effect would in all probability have been made at the foot of the grant by the Secretary, as was usual. But this grant contains none such, nor is it even signed by the Secretary.

The authority under which the Governor acted directed him to grant "de acuerdo" with the Departmental Assembly. It would seem, therefore, that their concurrence or approval was required in this as in ordinary colonization grants. From 1838 to 1846, while the Assembly was in session, it was never presented to that body. The only explanation offered is that given by Alvarado, viz.: that the Assembly resolved "that the Governor should act under the order without further advice from them." No resolution to this effect is produced. The fact rests on the bare statement of Alvarado.

As against the Mexican Government, this grant, even if genuine, is barren of all equities. The object of the superior order of the twentieth of July, 1828, was to protect the islands on the coast from settlement by foreign adventurers, and from becoming a resort for smugglers.

It is difficult to see how placing a few sheep and hogs upon this island, supposing it to have been done, could have in any degree fulfilled the intentions of the granting power. If occupation and settlement were required in any case, it would seem that in a grant made under the motives and policy which dictated this, they should surely have been insisted on.

That the island was never occupied by the grantee is, I think, established beyond reasonable doubt. Even his own brother is unable to state whether he ever took possession of it. From 1840 to 1847 no one was living on it. Capt. Nye swears that he has known it twenty-two years, and that in 1836 he put goats upon it. From these it probably derived its popular name of "Goat Island." The fact of Castro's placing hogs and sheep upon it, if he in truth did so, can neither be regarded as any substantial settlement or occupation, nor even as evidence of the assertion of a title to it in himself.

If then the concurrence of the Assembly be deemed to have been necessary to fully transfer the title of the Mexican nation to the grantee, the grant unapproved would constitute an inchoate or imperfect title, and the fulfillment of the implied conditions and the performance of the acts which constituted the only consideration for it, would seem necessary to perfect the equity of the grantee and entitle him to demand a confirmation at the hands of this or the former government.

But this objection to the claim it is unnecessary further to consider, for the claim must be rejected on other grounds.

In the recent case of *The United States vs. Cambuston*, it is clearly intimated by the Supreme Court that in cases like that under consideration, record evidence of the grant should be produced, or its absence satisfactorily accounted for. Neither has been done in this case.

The case presented is not that of a Californian, found at the acquisition of the country living on his rancho, under a claim of title notorious and undisputed, and who merely asks the United States to recognize his rights.

On the contrary, the application is for a title from the United States to parties who have never inhabited, occupied or cultivated any portion of the land solicited.

Thurn et al. v. United States.

Engaged as this Court has been for several years in the investigation of these cases, it is idle to disguise the fact already notorious in the country and so often painfully apparent to the Court, that the parol testimony by which these claims have been sought to be established, is in many instances utterly unreliable.

The best if not the only tests of the genuineness of an alleged grant are to be found in the record evidence contained in the archives, and in the fact that the land has been occupied under a notorious claim of title recognized by the former government.

Under the decision of the Supreme Court in the case of Fremont, the latter of these tests cannot in general be applied; for the non-occupation can usually be excused or accounted for by parol proofs.

The later case of Henry Cambuston seems to indicate that the Supreme Court are resolved to apply the former test with rigor.

But at least it may be asserted with confidence, that where there is no trace of the grant in the archives, no possession or unequivocal claim of ownership during the continuance of the former government, and the grant itself is not produced, the Court should demand the clearest and most indubitable proofs of the genuineness of the title.

If such be not offered, and if the testimony as in this case be conflicting and unsatisfactory, it is the duty of the Court to pronounce the claim not proved.

Such, after the most careful consideration, I feel to be my duty in the case at bar.

CIPRIANO THURN *et al.*, CLAIMING PART OF THE RANCHO
CAÑADA DEL CORTE MADERA, APPELLANTS, *vs.* THE UNITED
STATES.

WHERE one of two persons to whom a grant was made has exhibited a deed from his cograntee, and obtained a confirmation of his claim to the whole tract, the cograntee who has presented his separate claim for his half, and who denies the execution of the deed, is entitled to a confirmation as against the United States, and the rights of the parties *inter se* will be left to be determined by the ordinary tribunals.

Thurn et al. v. United States.

Claim for one-half of a square league of land in Santa Clara county, rejected by the Board, and appealed by the claimants.

E. R. CARPENTIER, for Appellants.

P. DELLA TORRE, United States Attorney, for Appellees.

In this case the genuineness of the grant, the regularity of the proceedings, and the fulfillment by the grantees of all the conditions are established by abundant proofs, and admitted on the part of the United States.

The proceedings, up to the issuance of a final title and including an approval of the grant by the Departmental Assembly, were conducted in strict conformity to the Regulations of 1828; and on the eleventh of June, 1834, the final *documento* required by those regulations was issued to the applicants, Maximo Martinez and Domingo Peralta.

The present claim is by the representatives of the latter, and is for one-half of the rancho. Maximo Martinez has also presented his claim, which, however, embraced the whole rancho. To establish his title to the share of his cograntee, he gave in evidence an alleged conveyance, dated May 19th, 1834, from Peralta to himself. As this conveyance seemed *prima facie* to show the whole title to be in Martinez, the claim to the whole was confirmed to him by the Board and by this Court. Domingo Peralta now presents his claim, and would clearly be entitled to a confirmation of one-half of the land, had not the United States put in evidence the conveyance alleged to have been made by him to Martinez as above stated.

Many objections to this document were urged on the part of the claimant; both its genuineness and supposed legal effect were strenuously denied.

The District Attorney declined to argue the questions discussed by claimants, observing that the controversy was one in which the United States had not the slightest interest; the grant was unquestionably valid, and the land had already been confirmed to Martinez, the appeal in whose case had been dismissed by order of the Attorney General. He further observed, that no decision of this

Court could in any way determine private rights in the parties to land admitted not to belong to the United States, and to which the full legal and equitable title was already vested in private individuals.

The District Attorney was understood to say that he interposed no objection to a confirmation to the present claimant, if the Court was of opinion that such a decree should be entered.

It has heretofore been decided by the Board and this Court that third persons have no right to intervene in these proceedings to ascertain whether land claimed under titles derived from the former Government is public or private land. As the decree of this Court and the patent issued under it cannot affect the rights of any parties, except the United States and the claimants, it seemed manifestly improper to allow an inquiry, instituted to ascertain the rights of the United States, and to determine what was private and what public land, to be controverted into a complicated series of cross ejectments between various private claimants, and this, where the decision of the Court could not in any event decide the rights litigated before it.

The only course, therefore, to be adopted was to confirm to the claimant whenever he, by a deraignment of title *prima facie* regular, showed himself to be the owner of a valid grant.

This mode of proceeding involved, it is true, the apparent anomaly of confirming in some cases the same land to different persons claiming under the same original grant. But as each suit was separate, and as the Court could not enter into question of adverse private rights, this anomaly was not to be avoided.

Had the present claimant been permitted to intervene in the case of Martinez, he perhaps might have shown, as he claims to have done in this case, that the alleged conveyance to Martinez was fabricated or inoperative. As he was not permitted to do so, it seems equally improper to allow that conveyance to be introduced into this case, nominally on the part of the United States, but really on the part of Martinez, to defeat the claim of Peralta to a confirmation, which if it were not for that conveyance he would be clearly entitled to.

Besides, if the validity of that conveyance is to be passed upon

Marsh v. United States.

by this Court, Martinez should be heard, and allowed to introduce testimony. The District Attorney has neither any interest or power to represent him. To the United States it is indifferent whether the land belongs to both the original grantees, or to Martinez alone.

To refuse to confirm this claim, is a recognition of the validity of a conveyance which may be liable to grave objections. But to confirm the claim, is merely to give to the claimant a right to a deed from the United States, relinquishing and quit-claiming any supposed title they might have been deemed to possess, and the reception of which merely puts the claimant on an equal footing with his adversary, and enables both to contest with equal evidence of title from the United States their adverse rights before the ordinary tribunals.

I think that the only course to be adopted is to confirm this claim, and to leave the question of ownership *inter partes* to be litigated before the tribunals having jurisdiction over the subject matter of the controversy.

A decree must be entered accordingly.

ALICE MARSH, CLAIMING THE RANCHO LOS MEGANOS, APPELLANT, vs. THE UNITED STATES.

THE limitation of quantity in the fourth condition of the grant must govern, and the claimant confirmed to the precise quantity of three square leagues.

Claim for twelve leagues of land in Contra Costa county, rejected by the Board, and appealed by the claimant.

HORACE HAWES, for Appellant.

P. DELLA TORRE, United States Attorney, for Appellees.

The claim in this case is for a tract of land called "Los Meganos," granted to José Noriega, October 13th, 1835, and approved

by the Territorial Deputation, October 15th, 1835. The final documento and titulo issued December 2d, of the same year.

The original grant was not produced to the Board, nor was any satisfactory evidence of its contents given.

The expediente, however, containing the petition, informes and decree of concession, was found duly archived, and on these documents, together with parcel proof that the titulo had in fact issued, the claimant relied for confirmation.

In his petition, Noriega set out the boundaries of the land solicited with some particularity, and states its extent to be four leagues from south to north, and three from east to west. Inasmuch as the decree of concession and the approval of the Deputation showed that the land of "Los Meganos" had been granted, it was contended that the lost titulo must have embraced the land solicited in the petition. It was not, however, urged that all the land embraced within the boundaries had been granted, and the claim was confined to a tract of twelve square leagues which had been, at the instance of the claimant, surveyed by the Surveyor General. By this survey, the last line which enclosed the Rancho had been so run as to include the precise quantity of twelve leagues. Had the Surveyor's lines been extended so as to embrace the entire tract according to the principles on which the survey was founded, the land would have been found to be about fifteen square leagues in extent. A survey, according to the description contained in the petition, would, it is observed by Mr. Commissioner Felch, embrace some twenty or twenty-five square leagues of land.

Since the cause has been pending on appeal, the original record of the titulo has been produced from the archives, where it is set out at length.

The fourth condition states the extent of the granted land to be a little more than three square leagues, and it contains the usual direction for a judicial measurement and a reservation of the sobrante.

It is urged that this limitation should be disregarded as being repugnant to the obvious intention of the grantor, and probably introduced by mistake.

It is not, perhaps, very clear what the claimant supposes herself

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entitled to. Whether she contends that the grant should be treated as a grant by metes and bounds, and the whole tract embraced within the boundaries mentioned in the petition should be confirmed to her, to the extent of twenty or twenty-five leagues, or whether, as it appears to have been admitted before the Board, she should be restricted to the quantity of twelve leagues, according to the survey procured to be made.

It is presumed, however, that independently of the limitation contained in the fourth condition, it would not be contended that the Governor could have intended to grant a tract of twenty or twenty-five leagues in extent, when the petitioner himself stated it to contain only twelve leagues, and two of the witnesses a much smaller quantity; and such seems to have been the view taken of the grant by the counsel for the claimant.

The grant cannot, therefore, be treated as a grant by metes and bounds, and the only question is, which of the specifications of quantity shall govern—that contained in the petition, or that contained in the grant?

It is urged that the Governor by his decree of concession, and the Deputation by confirming the title to "Los Meganos," clearly indicated their intention to grant the tract as described in the petition, and of the extent therein mentioned.

Had the boundaries of this tract been found to embrace only the quantity stated in the petition; had the attention of the Governor been particularly directed to the question of its extent; had he been apprised of its extent by the testimony of witnesses, and with these facts before him, repeated in his concession, and in the title, the boundaries as set forth in the petition; and had the Deputation confirmed with express reference to those boundaries, we might have supposed, as in the case of Rosa Pacheco, that the limitation in the condition was the result of a clerical error—provided that in attributing to the Governor the intention to grant by metes and bounds, we did not suppose him to have exceeded the quantity of eleven leagues to which his granting power was limited.

But in this case the proceedings show, that in all probability the limitation in the condition accurately expressed the intention of the Governor and of the Assembly.

The petition was referred to the Alcalde of the Capital to take information, by the oaths of three competent witnesses, as to the qualifications, etc., of the petitioner, and the extent and character of the land.

One of them states that the tract petitioned for may be three leagues long, and in width from two leagues to less than one-half a league.

The second witness states its extent to be about two and one-half or three leagues in length, and from one-half to two leagues in width.

The third witness states it to be four or five leagues in length, and three in breadth.

It thus appears that by the evidence of two out of three witnesses the Governor and the Deputation were apprised that the extent of the land of "Los Meganos" was about three leagues. When, therefore, they granted the land by that name, it is at least as probable that they intended a tract of the extent sworn to by the two witnesses, as of the larger extent sworn to by the third or as represented by the petition. The limitation in the condition of the grant removes all doubt upon the subject, and unequivocally expresses the intention which, without it, we might well have attributed to the grantor.

The claim to twelve leagues rests entirely upon the supposition that the Governor intended, by the term "Los Meganos," a tract of the extent represented by the petitioner. But when we find him informed by the depositions of two witnesses that the land of that name only included about three leagues, there is surely as much reason to suppose that he meant a tract of the smaller extent as of the larger.

There is therefore nothing repugnant to the apparent intention of the Governor or the Deputation in the introduction of the limitation of quantity in the fourth condition. Nor can I perceive on what grounds the Court would be authorized to strike from the grant so important a part of it.

As the grant can in no case be deemed a grant by metes and bounds, the words "a little more than," which precede the words "three leagues," are not susceptible of any definite construction.

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They were probably inserted as an authority to the judicial officer, slightly to increase the quantity for convenience of boundary, or similar reasons. As no such discretion can be confided to the Surveyor General, those words must be rejected for uncertainty, and the claimant confirmed to the precise quantity of three square leagues, to be located within the boundaries described in the petition, in the form and divisions prescribed by law for surveys in California, and embracing the entire grant in one tract.

J. W. REDMAN *et al.*, CLAIMING PART OF THE ORCHARD OF
SANTA CLARA, APPELLANTS, *vs.* THE UNITED STATES.

THE claim must be rejected, on the ground that the *bona fides* of the grant have not been sufficiently established by the evidence.

Claim for about ten acres of land in Santa Clara county, rejected by the Board, and appealed by the claimants.

THORNTON & WILLIAMS, for Appellants.

P. DELLA TORRE, United States Attorney, for Appellees.

The claimants have produced in evidence a grant purporting to have been made by Pio Pico, on the thirtieth of June, 1846, conveying the Orchard of Santa Clara to Castañeda, Arenas and Dias, in consideration of \$1200 paid by them to the Government.

Also, a memorandum or account, purporting to have been signed by Pico, of the articles furnished to the Government by the Señores Castañeda, Arenas and Dias, in payment of the purchase money of the Gardens of Santa Clara and San José. This receipt or account is dated Los Angeles, July 2d, 1846.

The grant purports to be signed by Pio Pico, as Governor, and by José Matías Moreno, as Secretary. Appended to it is the usual certificate, signed by Moreno, stating that "a note of this superior decree has been taken in the corresponding book."

No expediente from the archives has been produced, nor do those records contain any trace whatever of the execution of this grant. No corresponding book has been exhibited, nor is any such found among the archives.

No possession of the land was taken by the grantees during the existence of the former government. It is stated by Jas. Alexander Forbes that the orchard remained in the possession of the missionary priests up to the year 1849 or 1850. About that time, one Osio obtained the possession, but by what right or title does not appear.

The claim thus rests entirely on the alleged grant produced by the parties, with the usual proof of signatures, and on the parol testimony offered by them.

It is contended on the part of the United States that the grant was made subsequently to the conquest of the country, and is antedated.

The grant, as we have seen, purports to have been made at Los Angeles, on the thirtieth of June, 1846.

It was proved before the Board that at that date Pio Pico was not at Los Angeles, but at Santa Barbara, with his secretary and suite. The claimants have taken, however, in this Court, the deposition of Cayetano Arenas, who testifies that the grant was made in Santa Barbara, and sent by the Governor to the witness at Los Angeles, where it was received by him July 4th, 1846; and it is suggested that the grant was dated at Los Angeles, the Capital of the Department, though actually signed at Santa Barbara, in accordance with the practice of the Governor. The explanation is plausible, though it has somewhat the air of an afterthought to meet a difficulty that had unexpectedly arisen.

It is strange, however, that the receipt above referred to should particularly set forth that "it was given, for the security of those interested, *in the city of Los Angeles on the second of July, 1846,*" when in fact, if executed at all on that date, it must have been executed in Santa Barbara, or on the Governor's own rancho.

The grant, as has been stated, is to Juan Castañeda, Luis Arenas and Benito Dias. Castañeda is dead. The other two have been examined as witnesses.

It is clearly proven, and indeed admitted by Cayetano Arenas, that the grant is in the handwriting of Castañeda.

It is also in proof that during the whole month of June, and during the first days of July, 1846, Castañeda was at the headquarters of General Castro at Santa Clara. That about the tenth of July he was on the road to Los Angeles, at which place he arrived about the end of July.

These facts are established by the testimony of General Castro himself, by that of Benito Dias, and of Cayetano and Luis Arenas. Dias states that he left Monterey for Los Angeles on the tenth or twelfth of July. That on his way down he met Castañeda with General Castro; that they proceeded together to Los Angeles, where they arrived about July 20th. That they saw Pio Pico on their journey, at his Rancho of San Marguerita.

Cayetano Arenas, the claimants' witness, states that at the time he received the grant from Pio Pico, viz., July 4th, Castañeda, Benito Dias and Luis Arenas, the father of the witness, were not in Los Angeles, but were in the upper country; but that the latter arrived a few days afterwards.

Luis Arenas testifies that he first saw the grant in the hands of Castañeda in his (Arenas') house, in Los Angeles; that he left San José for Los Angeles the day after he heard of the taking of Sonoma by the Americans. This event occurred in the middle of June. Supposing, then, the witness' memory to be accurate, he must have lingered on the road, if his son is to be believed, a considerable time, for Cayetano Arenas swears, as we have seen, that he received the grant in Los Angeles on the fourth of July, and his father did not arrive until some days afterwards.

Luis Arenas further states that he "met Castañeda in Los Angeles a little while after his arrival." We have already seen, however, that Castañeda did not arrive in Los Angeles until about the twentieth of July. And Luis Arenas admits that when Castañeda showed him the grant, Benito Dias and Governor Pico were in the place, and that he saw them every day.

Bearing these facts in mind, we proceed to consider the testimony of Dias with respect to the execution of the grant. This witness swears that the grant was executed in Los Angeles about

the first of August ; that he saw Castañeda write it, and that on the same day he brought it back to the house of Luis Arenas with the Governor's signature attached to it ; that the receipt for money and articles furnished was written a few days after, but that he (the witness) never paid anything on account of purchase.

If this testimony be true, there is an end of the case.

The fact that the grant is in the handwriting of Castañeda, would seem of itself such a corroboration of Dias' testimony as to exclude much doubt as to its truth. Arenas himself does not pretend to have heard of the grant, or the agreement for the sale of the orchard, until after Castañeda's arrival in Los Angeles ; and this notwithstanding that, if the receipt be genuine, he, Castañeda, and Dias, had on the second of July, furnished to the Governor cash and various supplies to the amount of \$8200. He further states that he gave the Governor two hundred head of cattle, that he received back three hundred dollars in change, and that he delivered to Pico a writing which showed that he made his part of the payment with the two hundred head of cattle, which were then on Pio Pico's rancho. He adds that Pio Pico has these same cattle to this day.

Benito Dias states that he knows of the payment for the orchard of Santa Clara only from what Castañeda told him, viz., that he (Castañeda) had given a note to Pico, payable when the Mexican authority should be reëstablished, but that he, Dias, never paid any part of it.

The fact that the grant is in the handwriting of Castañeda might, perhaps, be accounted for, consistently with the good faith of the transaction, on the hypothesis, which however would be purely conjectural, that Castañeda had written it out and sent it to the Governor. But in such case he must have written it before it was signed, and how can we explain the circumstance that the date June 30th, 1846) is in the same handwriting and evidently written at the same time with the rest of the document ?

But supposing this difficulty surmounted, the receipt is evidently antedated, or a fabrication. Arenas could not have assigned the cattle spoken of by him, and the receipt for which is acknowledged on the second of July, at Los Angeles. He did not arrive until a

few days before Castañeda ; and his son, the only important witness for the claimants, states that he arrived some days after the fourth of July.

Castañeda could not have paid the cash, or delivered the other articles mentioned in the receipt, on the second of July, for at that time he was at the headquarters of General Castro, at a distance of several hundred miles ; and yet the receipt is in his handwriting.

The account given by Dias seems the only mode of reconciling these discrepancies, and, though I should hesitate to accept his unsupported statement, whether for or against a claimant in cases of this class, in this instance it is so corroborated and confirmed by other testimony, as to justify a belief in its truth.

Cayetano Arenas is the only witness on the part of the claimants who pretends to have seen the grant before the end of July.

If the claim is to be confirmed, it must be on his unsupported testimony.

The account given by him bears strong marks of improbability. He states that the grant was sent to him, "as it related to his father's business," and that he was instructed to retain it until Castañeda came down from the upper country. His father arrived a few days after, but Castañeda did not arrive, as we have seen, until about the twentieth. The father of the witness was one of the original grantees. It is strange that he should not only have withheld, for nearly two weeks, this grant from his father, who was as much entitled to receive it as Castañeda, but should not at least have shown it to him, or, so far as appears, mentioned its reception. That Luis Arenas saw it for the first time in Castañeda's hands is positively stated by himself.

The deposition of Cayetano Arenas was taken after the rejection of the claim by the Board. It is perhaps not unfair to say, that testimony of so much importance, and introduced for the first time after the claim was rejected, is liable to much suspicion.

Luis Arenas was examined and cross-examined at length before the Commissioners.

The fact that Pio Pico was not in Los Angeles at the date of the grant had already been established. Had he known that the grant was in the possession of his son from the fourth of July until he de-

livered it to Castañeda, he would naturally have stated it. He does not allude to the circumstance. It is difficult to imagine that Cayetano Arenas could have received this grant, made for the benefit of his father, amongst others, and retained it in his possession for nearly two weeks, without ever mentioning the fact, either at the time or even subsequently, up to the moment when his father testified before the Commission.

There are other circumstances which tend still further to corroborate the statements of Dias. The alleged motive of making this sale was the exigency of public affairs, which compelled the Government to avail itself of all the resources at its disposal. It was dated within a few days of the capture of Monterey. The payment and support of the army must have been of the first necessity, and the use to which the money and other articles would most probably have been applied; yet Castro, the commanding General, states that he never received any money arising from the sale of the orchards for the expenses of the war, and that if money from that source had been so appropriated, he would certainly have known it. On his cross-examination he repeats that, though Pio Pico might have applied money or property arising from this sale to public uses without his (witness') knowledge, yet he could not have applied it to the use of the army.

But Luis Arenas negatives the idea that the cattle at least were applied to public uses, for he states (perhaps unguardedly) that the two hundred head given by him to Pico are still on Pico's rancho. This fact alone would be sufficient to raise a suspicion that the Governor did not, in a crisis of public affairs, in good faith, attempt to obtain supplies by a sale of public domain; but rather that he has been induced at a subsequent day, for his individual advantage, to sign an antedated title.

But even if there were less force in all these circumstances, one consideration seems to me decisive. Neither Pio Pico nor Moreno have been examined in the case.

The Governor, in the absence of all evidence from the archives, was the person who of all others could have explained when and why he made the grant; why it was dated at Los Angeles; from whom he received it for signature; to whom he sent it; to what

uses he applied the property, and how it happened that he signed a receipt for it at Los Angeles, on the second of July, as received from Castañeda, Arenas and Dias, when no one of them was at that place.

Moreno might have explained how it happened that the grant was in this case written by Castañeda, when the latter was at its date, and for some weeks subsequently, at a distance of several hundred miles. If the grant was written by Castañeda and transmitted to the Governor for signature, Moreno might perhaps have told us how it happened that Castañeda guessed so prophetically the day on which the Governor would sign it, and was able by anticipation to fill in the date at the time he drew the instrument. For that the date was written at the same time and in the same hand with the rest of the document is obvious on inspection.

In a case like this, surrounded by circumstances so suspicious, and depending, on the part of the claimants, upon the testimony of Cayetano Arenas alone, the depositions of the Governor and his secretary ought not to have been withheld.

If the decision of this cause depended upon weighing the unsupported testimony of Arenas against testimony equally unsupported of Dias, the duty of determining which had sworn falsely would be difficult as well as painful.

But the testimony of Dias is corroborated by every fact in the case, while that of Arenas, if not inconsistent with them, is wholly unsupported, and explanation from the best if not the only source from which it could be furnished, is withheld. I think it clearly my duty to reject the claim.

Having reached this conclusion, it is unnecessary to discuss the question whether the Governor had authority to sell the lands of the Missions, or at least the orchards, vineyards and cultivated portions, which, under the decree of the Supreme Government and the proclamation of Micheltorena, had been restored to the missionary priests.

After the above opinion was read, it was suggested to the Court by the counsel for the claimants, that the deposition of José Matias Moreno, which was on file in the case of *T. O. Larkin vs. The*

United States, had been, by consent, admitted as evidence in this. The claim in the case of *Larkin vs. United States* is founded on the same grant as that exhibited in this case, and is for a part of the orchard.

In the opinion delivered in that case, the testimony of Moreno is adverted to, as follows :

“Moreno testifies that the signatures of himself and Pico are genuine, and affixed at the time the documents bear date, and that Pico signed them in his presence. He also swears that the documents are in the handwriting of Castañeda, that he saw him write them, and that they were written under his (witness’) directions, as he was much occupied with official duties.

“It is enough to say with respect to this statement, that it is abundantly proved by the testimony of General Castro, Benito Dias, Luis Arenas and Cayetano Arenas, that Castañeda could not have been at Santa Barbara on either the thirtieth of June or second of July, the days on which the documents are dated.

“The statement of Cayetano Arenas, the chief witness for the claimants, is wholly incompatible with the idea that Castañeda could have been at Santa Barbara, and written the grant by Moreno’s directions.

“Arenas states that the Governor sent the grant to him, ‘with instructions to retain it until Castañeda came from the upper country.’

“It cannot surely be pretended that at that time Castañeda was with the Governor, writing out the grant and receipt, and delivering the articles mentioned in the latter.”

The testimony of Moreno, therefore, entirely fails to afford that satisfactory explanation of the circumstances which the Court is entitled to expect. It has only served to confirm me in the opinion already expressed as to the merits of the claim.

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THE *bona fides* of the grant produced is not sufficiently established by the evidence. But if the grant be genuine, the claim must be rejected, on the ground that the Governor had no power to grant in colonization, or sell for a money consideration, the orchards and like property of the Missions.

Claim for about fifteen acres of land in Santa Clara county, rejected by the Board, and appealed by the claimant.

THORNTON & WILLIAMS, for Appellant.

P. DELLA TORRE, United States Attorney, for Appellees.

The claim in this case is founded on the alleged grant to Castañeda, Arenas and Dias, the merits of which were considered in the case of *J. W. Redman et al. vs. The United States*.

The testimony in the two cases is nearly identical, except that in this the depositions of John Forster and José Matias Moreno have been taken.

John Forster swears to the genuineness of Pio Pico's and Moreno's signatures. I do not understand it to be disputed that the documents were actually signed by them. The allegation on the part of the United States is, that the signatures were affixed after the conquest of the country.

Forster testifies in addition that the grant is in the handwriting of Francisco Lopez, now deceased.

The deposition of this witness was the first taken in the cause. He was not probably aware that the document would be proved to be in the handwriting of Castañeda—a fact admitted by Moreno himself, whose testimony was taken since the claim was rejected by the Board.

Moreno testifies that the signatures of himself and Pico are genuine, and affixed at the times the documents bear date, and that Pico signed them in his presence. He also swears that the documents are in the handwriting of Castañeda; that he saw him write them; that they were written under his (witness') directions, as he was much occupied with official duties.

It is enough to say with respect to this statement, that it is abundantly proved by the testimony of General Castro, Benito Dias, Luis Arenas and Cayetano Arenas, that Castañeda could not have been at Santa Barbara on either the thirtieth of June or the second of July, the days on which the documents are dated.

The testimony of Cayetano Arenas, the chief witness for the claimants, is wholly incompatible with the idea that Castañeda could have been at Santa Barbara and written the grant by Moreno's directions.

Arenas states that the Governor sent the grant to him, "with instructions to retain it *until Castañeda came from the upper country.*"

It cannot surely be pretended that at that time Castañeda was with the Governor, writing out the grant and receipt, and delivering the articles mentioned in the latter.

In the opinion delivered in the case of *Redman et al. vs. The United States*, the omission to take the depositions and to obtain explanations from Pico and Moreno was adverted to.

The testimony of Moreno taken in this case has confirmed me in the views expressed in that opinion, as to the character of this claim.

On the hearing of the cause it was objected on the part of the claimants, that the depositions of Benito Dias and others, which are contained in the transcript of the proceedings of the Commissioners, were not properly in evidence before this Court.

Those depositions were admitted under a stipulation which provided that "the depositions of Benito Dias, etc., taken in case number seven hundred and forty-two, on the docket of this Commission, be read and used in evidence in and upon the hearing of this cause before this Commission *only*," etc.

It was urged that this stipulation authorized by its terms the admission in evidence of the depositions before the Board only, and that if the testimony was desired to be used by the United States in this Court, it must be regularly taken. The District Attorney thereupon proposed that the witness should be called by the Court, with liberty to either side to cross-examine. This proposition was declined. He then contended that by the Act of 1851, the Court

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was required to render judgment on the pleadings and evidence taken before the Board, and contained in the transcript, as well as the further evidence taken by order of this Court, and that depositions could not be admitted and used in evidence before the Board without becoming a part of the evidence in the case to be considered by this Court, and that all stipulations which allowed the evidence to be used before the Board, but withheld it from this Court, were controlled and avoided by the positive provisions of the statute.

I should have much preferred to have had the witnesses reëxamined, with full opportunity to the counsel for the claimant to cross-examine.

The United States, however, insist that the evidence is already in the case, and call upon the Court to pass upon the question.

I am not without doubt on the point, but I incline to the opinion that whatever evidence is legally admitted and used as such before the Board, becomes, by force of the statute, evidence in this Court on appeal, notwithstanding that a stipulation of counsel may have provided that it should be used and read before the Board only.

If this evidence be received, I think it clear, as before stated, that under the proofs, the case must be rejected. I have stated the point made by the counsel for claimants, that it may be availed of in the Supreme Court on appeal.

But even without these depositions, it is by no means clear that the claim should be confirmed on its merits.

There would still remain proof that the grant was signed at Santa Barbara, and that it is in the handwriting of Castañeda. The statement of Cayetano Arenas, that it was sent to him on the fourth of July, to be retained until Castañeda arrived from the upper country, of itself justifies the inference that Castañeda could not have been, at the time the grant was drawn, with the Governor; and the hypothesis that he might have drawn it and sent it to the Governor, is not only inconsistent with Moreno's evidence, but irreconcilable with the fact that the date of the instrument is in the same handwriting and evidently written at the same time with the body of the instrument.

But even if this hypothesis be admitted, it destroys the presump-

tion which would have arisen from the date, that the instrument was executed on that day. The burden would then be on the claimants to establish the date. This they have attempted to do by the evidence of Moreno and Cayetano Arenas. But their testimony is, as we have seen, contradictory—the one swearing that Castañeda drew out the grant by his direction, because he was much occupied—the other, that it was sent to him to be delivered to Castañeda when he arrived from the upper country.

The only evidence of the payment of the alleged consideration is the receipt of Pio Pico, also in the handwriting of Castañeda, and purporting to be written on the second of July, the very day on which, if Cayetano Arenas is to be believed, the Governor must have forwarded the original grant to him to be delivered to Castañeda.

In the absence of all proof from the archives, of all evidence of a possession under the former Government, and of all explanation from the Governor as to the circumstances under which he made the grant or the payment of the consideration, I think it would be the duty of the Court, even if the depositions referred to be excluded, to reject the claim.

But it is objected on the part of the United States that, assuming the grant to have been executed on the day it is dated, and for the consideration mentioned in it or shown by the receipt, it is void for want of power in the Governor to make it.

The general right of the Governor of California to grant vacant lands formerly pertaining to the Missions, is not disputed.

It is urged, however, that the exercise of this right was, at the time of making this grant, expressly prohibited by the Supreme Government.

This prohibition is supposed to be contained in the following official note :

“ Ministry of Justice and Public Instruction.

“ MOST EXCELLENT SIR :

“ His Excellency the President has received information that the Government of the Department has ordered to be put up at public sale all the property pertaining to the Missions, which your predecessor had ordered to be returned to the respective missionaries for

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the direction and administration of their temporalities. Therefore, he has thought proper to direct me to say that the said Government will report upon these particulars, suspending thereupon all proceedings respecting the alienation of the before mentioned property until the determination of the Supreme Government.

"I have the honor to communicate it to your Excellency for the purposes indicated, protesting to you my consideration and esteem.

"God and Liberty.

"*Mexico, Nov. 14th, 1845.*

"MONTESDIOCA.

"To his Excellency the Governor of the Department of the Californias."

The effect of this instrument upon the power of the Governor is the question to be examined.

The official note above quoted unquestionably enjoins a suspension of all further proceedings as to the property referred to. But what property does it refer to? The document itself states: "The property which your predecessor had ordered to be returned to the respective missionaries for the direction and administration of their temporalities."

The predecessor referred to was Micheltorena. The inquiry then is, what property had Micheltorena ordered to be returned to the Missions?

The order of Micheltorena is contained in his proclamation, dated March 29th, 1843.

But to understand clearly the object and effect of that proclamation, the then existing condition of the Missions, and the previous acts of the Government with regard to them, must be noticed.

The decree by which the Missions of California were secularized was passed, as is well known, in 1833. Its general object was to convert the Missions into parishes under charge of secular priests or curates, and to form villages and distribute the lands to colonists. Of the houses belonging to the Missions, one was to be selected as the residence of the curate, and land was to be appropriated to him not exceeding two hundred varas square—the rest were to be used for town houses, primary schools and public establishments and offices.

Various decrees were made and instructions given during the years 1833 and 1834, having for their object to secure the colonization, and render effective the secularization of the Missions, as provided by the first decree.

By the instructions given to Don José M. Híjar, Political Chief of Upper California, provision was made for the distribution of the movable property of the Missions, and on the ninth of August, 1834, Figueroa, then Governor of California, made provisional regulations on the same subject, "that the fulfillment of the law might be perfect." By these regulations the Commissioners, who by a previous regulation had been authorised to take charge of all the "lands, movable securities and property of all classes," were required to make out inventories of the property of the Missions, "such as houses, churches, workshops and other local things—stating what belongs to each shop, that is to say, utensils, furniture and implements; as also of the vines and vegetables, with an enumeration of the shrubs; also an estimate of the number of cattle," etc. The inventories were to be kept from the knowledge of the priests, and to be under charge of the Commissioners.

It is apparent from the whole tenor of the provisional regulations, that the Government intended to take possession of all the property, real and personal, belonging to the Missions; that the curates who were to be appointed were to be supported by the salaries allowed by the Government, and that, until their appointment, the missionaries were to be relieved from the administration of temporalities, and to confine themselves to their spiritual functions.

The provisional regulations made by Figueroa seem to have given rise to great abuses, for in January, 1839, we find Governor Alvarado, in view "of the mournful condition in which affairs now are," making a provisional law defining and restricting the powers of the administrators of the Missions, and providing for the protection of the natives, and the preservation and proper application of the property.

Such seems to have been the condition of the Missions at the date of Micheltorena's proclamation.

The first article of that proclamation declares that the Government will order the Missions of San Diego, San José, etc., to be

delivered up to the Rev. Padres whom the respective Prelate may appoint, and said Missions shall continue to be administered by them as tutors to the Indians, in the same manner as they held them formerly.

It is perhaps not very clear whether by this proclamation the Governor intended to restore to the Fathers all the lands remaining ungranted at the time, or only the houses, orchards, gardens, etc., which owed their existence to the labors of the missionaries.

The second article of the proclamation would seem to favor the first view, for it declares, "that as policy makes irrevocable what had already been done, the Missions will not claim any lands already granted, up to this date," etc., seeming to imply that they were authorised to claim the restoration of all the ungranted land.

On the other hand, it is evident that the proclamation was made in pursuance of the President's decree of November 17th, 1840. This decree was issued on the petition of the Bishop of the Californias.

In that petition the Bishop adverts to the destitute condition of the priests, and the disorders which had arisen in the Missions, and insists that "the houses and orchards which the missionaries had made, which are contiguous to and in immediate communication with the churches, remain to the use and benefit of the missionaries."

It may, therefore, very possibly be, that the restoration ordered by Micheltorena was only that of the houses, orchards, gardens, etc., solicited by the Bishop, and was not intended to repossess the Fathers of the extensive tracts of uncultivated lands formerly pertaining to the establishments. The last clause of the proclamation clearly shows that the Government intended to retain the right of granting such lands, for the Governor promises not to make any new grants "without the information of the Reverend Padres, notorious unoccupancy, want of cultivation, or necessity." It is possible, however, that the intention of Governor Micheltorena was not merely to restore the houses, orchards, etc., to the Fathers, but by placing all the lands of the Missions under their administration, and subjecting the Indians to tutelage, to collect and protect that dispersed and oppressed people.

Be this as it may, the design seems to have been very soon

abandoned, and we find Micheltorena granting Mission lands as freely as any of his predecessors.

On the twenty-fourth of August, 1844, the Departmental Assembly passed an act providing for the sale of Mission property to defray the expense of the war with the United States, supposed to be impending. The war did not however occur, and on the twenty-first of April, 1845, the Assembly made a decree suspending the sale of the Missions, and reserving and appropriating the adjoining lands as common lands.

On the twenty-eighth of May, 1845, a decree was made by the Assembly, directing the sale of certain of the Missions, which were regarded as villages, and the leasing of others. "To expedite the enforcement of this decree," Governor Pio Pico, on the twenty-eighth of October, 1845, issued regulations for the renting and alienation of the Missions, the first of which provided that certain of them should be sold to the highest bidder.

On the thirtieth of March, 1846, the Assembly made a decree authorising the Government to carry into effect the decree of the twenty-eighth of May last, and providing that if necessary to avoid their total ruin, and in case it was impracticable to lease them, they might be sold at public auction to the highest bidder.

The Assembly does not at this time seem to have been aware of the order signed "Montesdioca," which issued in November preceding, for we find from their records that on the fifteenth of April that order was officially communicated to them by the Governor. No subsequent decree with reference to the Mission property was made until after the conquest of the country.

It is not easy to perceive from what source the Assembly derived the power they thus attempted to exercise. By the Mexican Constitution of 1843, the powers of the Assemblies under the colonization laws were preserved, and those laws were required to be observed. But by the colonization laws, their powers were confined to approving or disapproving the concessions made by the Governor; nor have I been able to discover whence they derived the authority to increase the powers of that officer, or to authorize sales or grants by him, which, under the colonization laws in force, he had otherwise no authority to make.

Such seems to have been subsequently their own view, for on the thirty-first of October, 1846, an act was passed declaring void the sales of the Missions made by Pio Pico, as Governor, as well as all other acts done by him without authority. As an act of the Assembly, this proceeding may have no force, for it was passed after the final conquest of the country; but it serves to express the opinion of that body as to the validity of the acts of the Governor with respect to the Missions, and probably as to the extent of their own authority to enlarge his powers under the Colonization and other laws of the nation, and the regulations and orders of the Supreme Executive.

The order signed "Montesdioca" is dated, as we have seen, on the fourteenth of November, 1845. The decree of the Assembly which Pio Pico endeavored to carry into effect by his proclamation of October 28th, 1845, was passed May 28th, 1845.

It is probable, therefore, that this decree occasioned the order of November 14th, from the Supreme Government, by which all further proceedings were suspended, and it would seem that the Supreme Government interposed at the earliest moment to prevent the Governor and Assembly from carrying out the designs which their decree and the Governor's proclamation indicated.

The words of the order in the original are "Los Bienes pertenentes á las Misiones." The term Bienes appears to be of comprehensive import, and includes all things, not being persons, which may serve for the uses of man. It may perhaps be rendered by the word "property," and would thus seem to refer to those cultivated lands, orchards, etc., and other appurtenances, such as houses, workshops, utensils, etc., which, as we have seen, had been taken possession of by the Administradores, and which, on the petition of the Bishop, had been recognized by the President in his decree of November 17th, 1840, as belonging to the missionaries.

It is to be observed moreover, that the President, in the order last referred to, declares that he decrees in conformity with everything which the Reverend Bishop of the Californias has requested, and "also in conformity with the law of November 7th, 1835, which directs the Missions to be restored to their former condition, for which purposes orders shall be issued to the Governor of the

Californias for the restoration to the Fathers of the possessions and property used by them under their administration for the conversion of the heathen," etc.

The terms of this order indicate that the Governor referred to the property *used* by the missionaries in their pious labors, and not to the extensive tracts of vacant land which might formerly have been included within the limits of the establishments.

That the law of 1835 did not suspend the power of the Governor to grant the Mission lands, has been decided by the Supreme Court, in the case of *The United States vs. A. A. Ritchie*, 17 How. 540. The grant in that case was made in 1842, and was therefore subsequent also to the order of 1840, made on the petition of the Bishop.

If then we are right in supposing that Micheltorena's proclamation and the official note signed "Montesdioca," were mainly intended to give effect to the order of 1840, and the law of 1835, they afford no other or greater objections to this claim than would be presented by the law of 1835 and the order of 1840; and that these latter did not prevent the Governor from granting the vacant lands of the Missions has been, in effect, decided by the Supreme Court. But, if this question were still open, I should be of opinion that the right of the Governor to grant the vacant lands of the Missions ought to be affirmed. The laws of 1833 and 1834, and the Provisional regulations, instructions, etc., made in pursuance, have clearly a two-fold object. The first is to secularize the Missions and convert them into parochial curacies. The second is to take possession, for the benefit of the nation, of all the property belonging to the Missions—such as workshops, utensils, furniture, implements; as also the vineyards, orchards, cattle, etc.

The law of November 26th, 1833, in terms authorizes the Departmental Government "to use in the most convenient manner, the property devoted to pious *uses* in order to facilitate the operations of the Commission" (for secularizing the Missions). When, therefore, the Government in view of the abuses and injustice consequent upon these laws and regulations, interposed by the law of 1835, the order of 1840 on the petition of the Bishop, the proclamation of Micheltorena, and the Montesdioca document of 1845, it

is most probable that it merely intended to suspend or annul that portion of the laws of 1833 and 1834 which related to the "*property*" of the Missions; and not to interfere with the disposition of the vacant lands adjacent to them, to which the Missions could pretend no title, either in law or in justice.

The fact that Alvarado and Micheltorena continued to grant vacant lands belonging to the Missions, without, so far as appears, objection from any quarter, strongly corroborates this view, and it was only when by its decree of May 28th, 1845, the Departmental Assembly proposed to sell or lease the entire property of the Missions, that the order to suspend proceedings was issued.

The claim of Bishop Alemany for the church lands, before the Board, only embraced the churches, orchards, vineyards, cemeteries, curates' houses, etc. The vacant Mission lands are not included, nor does any witness in that case enumerate those lands as constituting a part of the "*property*" of the Missions, and this claim is in strict conformity with that which we have seen was alone insisted on by the Bishop in his petition to the President in 1840.

We have thus the practical construction given to these laws by both the Government and the missionaries.

Admitting that the Governor's authority to grant, under the colonization laws, the vacant lands formerly included within the limits of the missionary establishments, it seems equally clear that under the law of 1835, the order of 1840 on the petition of the Bishop, the proclamation of Micheltorena and the order of 1845 signed "*Montesdioca*," he was without authority to grant the orchards, vineyards, workshops, buildings, etc., which the labor of the Fathers had created, and to the enjoyment of which, as urged by the Bishop, they had a just and undeniable claim.

Even if the decree of the Assembly of May 28th, 1845, and that of March 30th, 1846, passed to give effect to it, could be regarded as conferring any authority on the Governor not previously possessed by him, they did not authorize a sale such as that alleged in this case, for by the terms of both, the sales, if found necessary, were required to be made at public auction.

But the grant produced refers for the authority of the Governor to a decree of the Assembly of the thirteenth of April, 1846. I

have not been able to discover what decree of the Departmental Assembly is here alluded to; none of that day has been produced, nor is any such found in the records of the proceedings of that body.

It is urged, however, that the order contained in the Montesdioca document was revoked by the communication signed "Tornel," and addressed to the Commandant General of the Californias, under date of March 10th, 1846.

With reference to this document, it is to be observed that it appears to be a circular addressed to the Commandant General, amongst other functionaries. All of it except the address is marked as a quotation, and its object seems to have been to stimulate the public authorities to a vigorous defense of the national territory, and the maintenance of the national honor. The only clause by which any authority can be deemed to be conferred on the Governor, is that in which it is stated that the Supreme Government "expects from your loyalty and patriotism that you will dispose such measures as you may judge most suitable for the defense of the Department, for which object *ample power is granted to you and Señor the Governor.*"

It is evident that the power here conferred was given to the Commandant General as amply as to the Governor. It can hardly be pretended that under it the Commandant General could have sold the vineyards and orchards of the Missions to whomsoever and at whatever price he chose.

It appears to me that the object of this circular was merely to authorize and direct the General Commanding to take the proper military measures for the defense of the country, and that had it been intended to revoke or modify the order signed "Montesdioca," prohibiting the sale of the Mission property, and which was issued only three months previously, that object would have been unequivocally expressed, and the Governor directed to make sales of that property to procure resources for the war.

The Board of Commissioners were unanimously of opinion that this circular conferred no power to make the sale at bar, and in that opinion I concur.

From the foregoing it follows that, admitting the Governor's right to grant the vacant lands of the Missions, or even to sell

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them, as to which latter I express no opinion, it is nevertheless clear that he had no authority either to grant or sell the vineyards, orchards, cemeteries, Mission buildings, etc., which, on the petition of the Bishop, had been recognized by the President as belonging to the Fathers—which had been restored to them by Micheltorena, and the sale of which under the Assembly decree of May 28th, 1845, the Supreme Government had promptly interposed to prevent.

If these views be correct, the claim must be rejected for want of authority in the Governor to make the grant.

MILTON LITTLE, CLAIMING FIVE LEAGUES OF LAND ON THE
SACRAMENTO RIVER, *vs.* THE UNITED STATES.

THE claim must be rejected, because the proof fails to establish that Josefa Martinez, the assignor of claimant, was one of those in whose favor the so-called general title issued, or that she occupied or cultivated the land claimed.

Claim for five leagues of land in Yolo county, rejected by the Board, and appealed by the claimant.

THORNTON & WILLIAMS, and ALBERT PACKARD, for Appellants.

P. DELLA TORRE, United States Attorney, and PEYTON & DUER, for Appellees.

The claim in this case is under the general title of Micheltorena. This title is as follows :

“The Supreme Departmental Government not being able to extend, one by one, the respective titles to all the citizens who have petitioned for lands, with a favorable information from Don Augustus Sutter, Captain and Judge in charge of the jurisdiction of New Helvetia and Sacramento, I, in the name of the Mexican nation, by these letters confer upon them and their families the lands described in their applications and maps, to all and each

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of them, who has solicited and obtained favorable information from said Señor Sutter, up to this day, so that no one can dispute their titles. Señor Sutter will give them a copy of this in furtherance of a formal title, with which they will present themselves to this Government, to extend the same title in the proper form, and upon corresponding sealed paper; and to establish this in all time I give this document, which will be recognized and acknowledged by all the authorities, civil and military, of the Mexican nation, in this and the other departments. Duly authenticated with the seal of the Government and the military seal, in Monterey, this twenty-second of December, 1844.

(Signed)

“MICHELTORENA.”

The claimants have produced in evidence a petition and accompanying map, addressed to Governor Micheltorena, and soliciting five leagues of land on the borders of the Sacramento, immediately opposite to the establishment of Señor Sutter.

The petition is dated Monterey, April 1st, 1844.

On the margin of this petition is an order of reference to the Secretary of Dispatch.

On the back of the document is indorsed an order signed by Manuel Jimeno, directing the petition to be referred to Señor Sutter for information as to its contents, and that it be directed afterwards to the Alcalde of San José, “that he may say what occurs to him.”

This order, as well as that by the Governor in the margin of the petition, is dated March 29th, 1844.

Beneath the order of Jimeno is written the “informe” of Sutter, which merely states that the land solicited is unoccupied. This certificate is dated April 15th, 1844.

The claimants have also produced in evidence a copy of the general title, with a certificate of Sutter annexed to it, stating it to be a copy delivered to Josefa Martinez “for the ends convenient.” This certificate is dated April 7th, 1845.

Upon these documents the claimants rely to establish that Josefa Martinez was one of the class in whose favor the general title issued, and that she availed herself of the right therein conferred to obtain a copy of the title certified by Sutter.

The first objection urged on the part of the United States is, that this copy was not furnished as stated in Sutter's certificate; but that the latter has been recently given and antedated. Much testimony has been taken by the United States in support of this allegation. A great part of it, however, is wholly inadmissible.

In examining the depositions I shall confine my attention to those parts of them which, by the rules of law, are admissible in evidence.

The copy of the general title, with Sutter's certificate annexed, is produced by one Charles Brown. This witness states that in August or September of 1848, Robert T. Ridley, who claimed to be owner of the land with Milton Little, the present claimant, placed in his hands the papers produced by him as collateral security, for moneys advanced to Ridley by the witness, and that they have remained in his possession ever since. The loan to Ridley the witness admits to have been repaid to him in 1849, but he retained the papers in his possession because Ridley did not ask him to redeliver them.

On his cross-examination, the witness gives an account of a trip to Sacramento, to see General Sutter, and of his leaving the papers with A. Bartol, by whom they were subsequently returned to him. It is contended by the United States that the object of this trip was to procure the signature of Sutter to the certificate, and that that object was subsequently effected by Bartol, with whom the papers were left for the purpose.

Brown states that in a conversation with A. Packard, counsel for claimant, in his office, about two or three months before the taking of his deposition, he mentioned that he had some papers relating to the land. That Packard asked him for them, and he brought them to him. That shortly afterwards he went to Sacramento on business of his own, and also to ask of General Sutter if the signature was genuine.

The account given by the witness of the object of this trip, and his own reasons for making it, are by no means satisfactory. When first interrogated as to the other business he had in Sacramento, he refused to answer, but subsequently stated that his business was with Bartol; that he had no previous appointment with him; that he did not know whether he would find him there or not; that they

had had some previous conversation about horses, and he went up to see about selling them.

When asked as to his reasons for taking such an interest in ascertaining the genuineness of the paper, he replied, that it was only such an interest as he would feel in the affairs of any friend. That he heard through Mr. Bellamy that his friend Mr. Bassham was interested in the claim. That he did not mention to Bellamy that he had the papers, nor was he requested by Bassham to go up to Sacramento. That he had never spoken to the latter on the subject previous to his trip to Sacramento; and that neither Bassham nor any one else had ever spoken to him on the subject of his going to Sacramento before he went. That no person paid him for the trip or offered to do so, nor did any one know he was going. That he never asked any one acquainted with Sutter's signature whether it was genuine or not; that he never asked Sutter himself whether he had signed it, although he had frequently met him since the papers were in his possession; that he has had no reason recently to doubt the genuineness of the signature, and has never doubted it.

These statements of Brown bear strong marks of improbability. It is difficult to believe, from his own account, that his sole motive in seeking General Sutter was to ask if his signature was genuine. That fact could readily have been ascertained by inquiry of any one of the many persons acquainted with it; and the witness himself states that he never doubted it. If he took so deep an interest in the affairs of his friend Bassham, it is strange that he never spoke to him on the subject of the papers, and that he never even mentioned to Bellamy or to Packard his intention to take this disinterested excursion to Sacramento, to ascertain a fact which he admits he never doubted. That his sole object in going to Sacramento was to see Sutter is, I think, evident. He arrived in the middle of the night and slept on board the steamboat, and he came back by the return boat at two P. M. of the day on which he arrived. That he did not meet Bartol by appointment is admitted by himself, and testified to by Bartol; and the latter is unable to recollect that any conversation took place between them on that day relating to a sale of horses.

But the testimony of Bartol discloses unmistakably the real ob-

ject of Brown's visit to Sutter. This witness states that about seven o'clock on the morning of Brown's arrival he met him in front of the hotel. That in walking up J street they perceived General Sutter in a drinking saloon, in a state of intoxication. Such being his condition, nothing was said about business, although Brown may have expressed his annoyance at the circumstance. That he and Brown were together during the day, and about an hour previous to the departure of the steamer, Brown asked him to write a letter to General Sutter, being unable to do so himself on account of a felon on his finger. He took Brown to the stage office, where the letter was written by one of the agents. Brown then inquired when he (the witness) was going to Marysville, saying that he had important business in San Francisco, and that if he (witness) would hire a team at Marysville and find Sutter when he was sober, he would pay his expenses, at the same time handing him a package containing the letter which had just been written and a document in Spanish. The witness was wholly unable to read the document, but Brown said to him that it was for a tract of land on the other side of the river.

After delivering the package, Brown left Sacramento in the steamer, and about ten days afterwards, the witness being at Marysville, drove out to Hock farm, the residence of Sutter, to see him. Finding him at home, he delivered to him the package and the letter of Brown. General Sutter examined the paper and retired to another room, and after an absence of from five to fifteen minutes he returned and handed the papers back to the witness. When he first presented them to Sutter, he (witness) observed to him that "he was only carrying out the wishes of an old friend, Mr. Charles Brown, by bringing down those papers to him," (Sutter) and Sutter replied, either then or when he returned the papers to the witness, that it afforded him pleasure to render assistance to an old soldier; that "he knew that man," (mentioning some Spanish name) and that "a grant had been given him for certain lands."

After receiving the papers from General Sutter, the witness retained them in his possession until he returned them to Brown, about the end of March or first of April. When the papers were delivered, Brown inquired what had been the witness' expenses, to

which the latter replied "nothing." The witness does not recollect whether Brown expressed any satisfaction at the reception of the papers.

That the paper delivered to Bartol and by him returned to Brown is the same as that now produced by the latter, is positively stated by Brown himself, the claimant's witness. He omits all mention, however, of the letter addressed to Sutter, which accompanied it, but states that he told Bartol to see Sutter and ascertain whether "it was all right."

Upon a careful consideration of the account of the transaction given by these two witnesses, I have been unable to entertain a doubt as to its true character.

The extreme improbability of Brown's story has already been alluded to. It is inconceivable that he should have felt so much solicitude to ascertain the genuineness of a signature which was unsuspected by himself, as not only to go to Sacramento for the purpose, but to be willing to pay the expenses of a messenger to Sutter to make the inquiry. If his instructions to Bartol were such as he states, the latter failed to accomplish the objects of his journey; for it does not appear that any inquiry whatever was made by Bartol, at his interview with Sutter, as to the genuineness of the signature, nor did Sutter say a word on the subject. If the only business of Brown or of Bartol with Sutter was to ask him if the signature was his, it would be most natural that Sutter should have looked at the document and communicated the result of his inspection to Bartol. On the contrary, he reads the letter of Brown and retires to another room, from whence after a short absence he reappears and expresses his pleasure at being able to serve an old soldier and friend. The nature of the service he was rendering is sufficiently clear. It must have been something more than the acknowledgment of a signature of his own. To obtain that, no appeal to ancient friendship could have been necessary, and as the only paper returned by Sutter to Bartol was that which Bartol had just handed to him, Brown, when he received it from Bartol, must have been as unsatisfied as to its genuineness as when he first sought General Sutter to ascertain, as he says, a fact which he also states he never doubted.

Bartol, it is true, does not swear that he *saw* Sutter write the certificate ; nor does he admit that he knew the contents of Brown's letter to Sutter. He even states that he had *then* no idea what Sutter was to do with the paper ; nor did he inquire of Brown, as he supposed the letter to Sutter explained all. But even this version of the story is inconsistent with Brown's declaration that he told Bartol to ask Sutter if the paper was " all right ;" and whether or not we suppose Bartol to have been aware of the nature of the service expected from Sutter, it is clear that it was something different from answering a simple inquiry whether a signature purporting to be his was genuine.

It seems to me that all the circumstances of the transaction point as unmistakably to its true nature as if it had been positively sworn to by witnesses who had seen Sutter in the act of writing the certificate.

But there are other considerations which tend to confirm this view.

The document in question is produced for the first time by Brown, a witness examined in this Court April 3d, 1857, more than four years after the claim was presented to the Board. Up to that time no one seems to have known or suspected its existence. Even Belamy, who testifies that at the request of Josefa Martinez and her husband, and under an agreement with them, he had the petition drawn up, that he presented it to Micheltorena and afterwards to Sutter, and that he took possession of the land under his agreement with Josefa Martinez, does not pretend that any copy of the general title was obtained, or was certified to by Sutter.

The mode in which Brown accounts for its possession by him, and its long suppression, is highly improbable. For it can hardly be supposed that if it was placed by Ridley in his hands as security for a loan, it would not have been returned when the loan was paid.

The only person to whom Brown states he showed or even mentioned the document, before his trip to Sacramento, is Albert Packard ; and he has not been examined. Nor has Sutter's testimony been taken, although his interests and his feelings would naturally have led him to seek and to insist upon an opportunity of denying and refuting so injurious an accusation.

The copy of the general title produced by Brown is sworn by Mr. Bidwell to be in his handwriting. The witness is wholly unable to recollect having made it, and states that he had forgotten every thing about it until it was shown to him on the stand. He recognizes, however, the handwriting, and thinks it must have been delivered to Sutter, for whom he made a considerable number of copies of the general title.

It is evident that the fact of this copy being in Bidwell's handwriting does not bear upon the point in dispute—viz., as to whether the copy was delivered and the certificate attached at the date of the latter. That many copies of the original title may have been prepared by Sutter's direction, in order that they might be delivered when applied for, is probable. I think the testimony which has been reviewed leads us irresistibly to the conclusion that one of these copies having by some means come into the possession of Brown, a certificate of Sutter was attached to it at the time it was presented to Sutter by Bartol.

But the testimony of Samuel C. Heaton removes any doubts which might otherwise have been entertained on this point.

This witness swears that he accompanied Bartol on his visit to Sutter; that Bartol and Sutter had a little conversation concerning a paper that the former wished Sutter to sign; that Sutter objected but finally consented, took the paper, left the room and returned with the paper. If there was any doubt as to the identity of the paper, the evidence of this witness on that point might be open to criticism. But Bartol and Brown himself admit that the paper given by Brown to Bartol and by the latter presented to Sutter, is the paper now produced. The only question is—Was the object of Bartol's interview to ascertain the genuineness of the signature or to obtain an antedated signature? The testimony of Heaton has merely served to confirm me in a conclusion to which I would independently of it have irresistibly been led.

Discarding, then, the copy of the general title and the certificate of Sutter, as affording no evidence of the claimant's title, the only documentary evidence which remains is the petition with the marginal order, the order of reference signed by Jimeno, and the "informe" signed by Sutter. I do not understand that the genuineness of Micheltorena's or Jimeno's signature is disputed.

There is, however, a discrepancy in the dates of the several documents for which I have been unable to account. The petition of Josefa Martinez (which it may be remarked is not signed by her) is dated April 1st, 1844. The marginal order of Micheltorena and the order of reference signed Jimeno are both dated March 29th, 1844—three days before the petition purports to have been written. I have endeavored in vain to conjecture some satisfactory explanation of this circumstance. It might have been supposed that Josefa Martinez, being an ignorant or careless person, had, when drawing the petition, mistaken the date; but Bellamy, the principal witness for the claimant, testifies that the petition and map were drawn up under his direction by Francisco Arce, and that he (the witness) then presented them to the Governor, who wrote the marginal order in his presence. Arce was a person of intelligence and consideration, and at one time filled an office under the Government. It is singular that both Arce and Bellamy should have fallen into this mistake, or else, if the petition be correctly dated, that the Governor and the Secretary should have both accidentally antedated the orders signed by them.

But, assuming the petition to have been drawn and the orders of reference to have been made as appears on the documents, it is also necessary to bring the petitioner within the class of persons referred to in the general title, to show that previous to the issuing of that document a favorable report of Sutter had been obtained.

The whole case on the part of the claimant fails, unless it satisfactorily appears that the favorable report of Sutter was made at the time it bears date.

The evidence on this point consists of the testimony of George W. Bellamy, and the presumption arising from the date affixed to the report, with proof of the genuineness of the signature.

But Bellamy, though he swears that General Sutter signed the report in his presence, does not state when it was signed. He adds that "he thinks, though he is not certain, that Mr. Bidwell or Major Reading wrote the body of the report for General Sutter, and then Sutter signed it."

The body of the report is admitted to be in the handwriting of Sutter himself. This mistake, which may have arisen from mere

inaccuracy of memory, would not of itself justify any inferences unfavorable to the witness. It is proper to notice it, however, among other circumstances to be considered hereafter, upon a just appreciation of which his credibility must depend.

As the principal, if not the only evidence with regard to the occupation of the land is that given by Bellamy, the testimony on that subject may now be examined.

Bellamy testifies that after Sutter had signed his report, he (witness) returned the paper to Micheltorena, and upon his assurance that the grant would be issued, took possession of the land under an agreement with Josefa Martinez and her husband. That Sutter put him in possession; and that he placed cattle on it, and having borrowed tools from Sutter, made a corral upon it. That afterwards he and Matthews were about to drive some cattle upon it from the Salinas plains, but were prevented by Larkin, to whom Matthews was indebted. That the revolution which soon after broke out prevented them from getting more cattle; and that he then authorized Robert Ridley, who was living at General Sutter's, to take possession of the rancho, take care of the cattle and establish a ferry, which he did. That Ridley remained on the rancho a little less than a year, when he died. He (Bellamy) then authorized George McDougal to take possession of the property and cattle, which McDougal did, and remained there until 1848 when he left.

To disprove these statements the United States have called a large number of witnesses.

Samuel Kyburz testifies that he resided at or near Sacramento from October, 1846, until 1848. That in the summer of 1848, one McDowell settled upon the land opposite the city, and within about a mile of a place which the witness had, by the advice of Sutter, selected for himself. That McDowell was the first person who settled on that side of the river within four or five miles of Sutter's "Embarcadero." He built a house about fifty rods from the bank of the river, and a brush fence to keep his mules in. He had his family with him, who still live there.

On being asked whether Bellamy ever built a corral and put cattle on the land, the witness replies that he never saw or heard that he or any person ever did so before McDowell; that he never

saw any signs of a settlement previous to McDowell's, nor heard of any.

On his cross-examination he states that as to the years 1844 and 1845, he cannot speak positively from his own knowledge, although he is satisfied in his own mind on the subject, but that from 1846 he is sure no one occupied the land, and there were no cattle on it to his knowledge, except stray cattle. He adds that at that time the settlers on that side of the river were not numerous—being only two within thirty miles—viz., Swat and Hardy; and that Sutter assisted McDowell to make his settlement, and directed the witness to send two ox-teams to haul logs for the house, etc.

Daniel Leahy testifies that he resided at Sutter's fort from October, 1845, until April, 1847. That Juan de Swat had a settlement on the opposite side of the river, near what is now called Washington City. That he was frequently at Swat's place up to the spring of 1846. That there was no other settlement at that time in that vicinity. That he never saw a corral there; if there had been one, he could not have helped seeing it; there might have been some cattle on the plains—he never saw them near the river. That the first settlement after Swat's was made by McDowell. He never heard of any claim or settlement by Mathews, Bellamy, Ridley or George McDougal.

David T. Bird testifies that he came to California in 1844, and has resided here ever since, and has been acquainted with the land claimed in this suit ever since his arrival. In 1844 he was residing on Cache creek, about twenty miles above Sutter's fort, and he traveled over this tract on his way to the fort, and returned the next day. He passed through or over the tract during the year 1844 five times, which he remembers distinctly, and perhaps oftener. After the Micheltorena war and about May 1st, 1845, he returned to Sutter's fort, and continued there in Sutter's employment until 1846, and between these dates was on the tract ten or twelve times. The witness then states that during all this time there was no settlement or improvement upon the land, except those of Swat, about eight miles below. That he thinks he can assert positively that if there had been a corral on the land, he would have seen it.

He further states that McDowell was the first person who settled on the land within eight miles of where Washington now stands. That he knew Bellamy; but that he never to his (witness') knowledge built a corral or put cattle on the land; and that neither Ridley or McDougal ever, to his knowledge, lived there. That the Indian who attended to the ferry, established as the witness understood by General Sutter, lived on the Sacramento side of the river, and transported passengers in a canoe, and this mode of crossing continued until 1848. The witness adds that he has frequently hunted deer and trapped on the tract of land in controversy.

William Gordon testifies that he settled on Caehe creek in 1842, about twenty-five miles up the river from Washington, and has lived there ever since. That he is acquainted with the settlements on the river opposite Sacramento and for twenty miles up and down. The first settler was Swat, who settled where Washington now is. The next was Knight, who settled about twenty-five or thirty miles above the site of the present town of Washington; and the next was Hardy, who settled in 1845, about eight miles below Knight's place. That there was no other settlement within thirty miles of Washington until 1847, when McDowell made a settlement under some agreement with Swat, as witness was informed. That he never knew of any settlements made by Matthews, Bellamy, Ridley or McDougal, between the years 1842 and 1847, and if there had been any he should have seen them. That he heard several times during that time of Matthews and Bellamy coming to look for land, but never heard of any settlement or claim.

Margaret Taylor, who is the widow of James McDowell, testifies that in May, 1847, her former husband settled on the land at the place where Washington now is, under an agreement with Swat. That Sutter was present when the agreement was made, and assisted McDowell to build his house by furnishing a team to draw logs, etc., and that at the time of this settlement there was no improvement whatever in that vicinity, on the west bank of the Sacramento; and her husband continued to reside in the same place until his death in 1849.

Gilbert A. Grant testifies that he resided in 1849 and 1850 on the west bank of the Sacramento, and acted as agent for Sutter,

and had opportunities of learning what lands were reputed to have been granted. That he never heard of any grant having been made below Hardy's place, and that he heard of such a claim for the first time about a month before his deposition was taken.

Marcos Vaca testifies that he has lived about fifteen miles from Sutter's fort since 1843. That a trail led from his rancho to the Embarcadero of Sutter's fort, and that he frequently visited McDowell's house and the embarcadero. That McDowell made his settlement in 1847, and that up to that time there were no buildings or improvements whatever near the Embarcadero, nor does he remember any on or near the road from his rancho to the Embarcadero. He further states that he never heard of any grant or claim concerning the land near the Embarcadero before 1847.

George T. Wyman testifies that he resided at Sutter's fort from 1841 to 1848, and was engaged in hunting and taking care of stock for Captain Sutter. That from 1844 to 1847 he has been on the land adjacent to the Embarcadero so often that it is impossible to state the number of times. That McDowell was the first person who settled or made any improvements on the land. That he has known Bellamy since the day he arrived, and that during the years 1844, 1845 and 1846 he neither built a corral or put cattle on the tract in question; that if he had done so, he (witness) would surely have known it. That in 1846 there was no corral on the north side of the trail to Vaca's ranch (as stated by Major Snyder, hereafter alluded to).

That he saw Bellamy frequently, and that from 1846 to 1849 he never heard him set up any claim for the land in question, or say that he had built a corral or placed cattle upon it. He did not however see Bellamy oftener than once a month during the period referred to.

Willard Buzzle testifies that he resided at Sutter's fort from 1841 until 1843; that he returned in 1844 and remained there until 1847. That he was on the tract in controversy a great many times—on an average, once a month. That McDowell was the first person who settled or made any improvement near the present site of Washington, and this was in May or June of 1847. That Bellamy did not, to his knowledge, build a corral or place cattle on

the land, between the years 1844 and 1847. That he saw him frequently, being an old acquaintance, and never heard him set up any claim to the land. That there was no corral near the river, as testified by Major Snyder, except a brush corral which he (witness) helped to build for the purpose of catching horses after crossing. This was built in 1844, and in the fall of that year it was fitted up again, as many horses were brought up. That Bellamy did not assist and was not present when it was made or repaired. It was burnt in 1846, after which another was erected for the same purpose.

Nathan Coombs testifies that from 1843 to 1847 he resided on Cache creek, about twenty-five miles from Sutter's fort. That he was frequently at the fort, and that on his way he passed over the tract in controversy. That the first person who made any settlement upon it was McDowell, whom he saw there in 1849. That he acted as guide for Major Snyder in the fall of 1846, from Sonoma to Sutter's fort. That on their way they passed along the trail from Vaca's rancho to the Embarcadero; but that there was no corral on the spot spoken of by Snyder, that he (witness) can recollect. That he has known Bellamy since 1843, and from that year until 1845 met him frequently; and that up to the summer of 1848 he knows positively that Bellamy did not take possession of the tract, build a corral, or place cattle upon it. That a corral was built of brush near the Embarcadero, which was used by various persons when crossing their stock; and that he never heard of the claim of Bellamy and Matthews until within a few weeks.

To the foregoing testimony on the part of the United States may be added that of John Bidwell and Samuel J. Hensley, witnesses on behalf of the claimant.

These witnesses state that McDowell was the first person who settled or made any improvements opposite Sacramento city, at the place now called Washington.

On the part of the claimant, the only witnesses who corroborate the testimony of Bellamy are Major J. R. Snyder and Joseph Swanson.

Major Snyder testifies that in the fall of 1846 he saw a corral on the land opposite Sutter's Embarcadero, and about one hundred and

fifty or two hundred yards back from the river. It was about fifteen or twenty yards to the north of the trail commonly traveled in going from Sutter's fort to Sonoma. He was accompanied at the time by Coombs as guide. The corral was readily seen from the trail. It had in it some horses, which the witness supposed to belong to some trappers who were camping on the river. He afterwards passed along the same trail, about July, 1848, when he again observed a corral near the same place, but whether the same one or not he cannot state. He did not observe, however, on either occasion, the house of McDowell. The witness also states that when he crossed the river in 1846 there was no regular ferry. There were Indians who crossed people over.

Joseph Swanson testifies that he passed over the tract in 1844. There was then a corral there, about one hundred to three hundred yards from the river, a little above the Embarcadero. He is unable to state its size or mode of construction, except that its shape was square or oblong.

From the foregoing abstract of the testimony with regard to the occupation of the land, it is apparent that in every particular, except one, Bellamy's statements are not only not corroborated, but disproved. It is impossible to believe, under the evidence, that Bellamy was put into possession of the land by Sutter; that he placed cattle upon it; that Ridley took possession of it and established a ferry across the river, or that McDougal took possession and remained there until 1848, as stated by Bellamy. Circumstances such as these could not have been unknown to the numerous witnesses who resided in the immediate vicinity. To suppose them to have occurred we must, on the faith of Bellamy's unsupported declarations, attribute to them misstatements which it is difficult to believe not to have been willful.

On one point, Bellamy's evidence is in a slight degree corroborated by the testimony of Major Snyder and Swanson. But these witnesses only testify to the existence of a corral, the object of which is explained by other witnesses, and with the construction of which Bellamy was wholly unconnected. I think that the preponderance of testimony is clearly and decisively against the truth of the statements of Bellamy.

It is urged that his testimony is inadmissible on the ground of interest. Whatever force there might have been in that objection, it was not made in season. He was examined and cross-examined without objection. In estimating his credibility however, it ought not to be lost sight of.

Bellamy's character has since been impeached by the testimony of several witnesses, and sustained by that of some others of great respectability. If the proofs were more nicely balanced, an inquiry into his general character might be necessary. But where the preponderance of evidence is decisive, the result of such an inquiry could have but little weight.

If then we reject the testimony of Bellamy with regard to the occupation of the rancho as untrue, his statement that Sutter signed his report in his presence cannot be received without extreme distrust.

We have seen that Bellamy states the body of that report to have been written by Mr. Bidwell or Major Reading. This statement is admitted to be a mistake.

We have also seen that one document at least in this case was written by General Sutter, long since the conquest, and antedated. This fact is of itself sufficient to impair, if not wholly destroy the presumption that might otherwise arise, that the report of Sutter was made at the time it bears date. This presumption and the testimony of Bellamy constitute the only evidence on the part of the claimant to show the time when the report of Sutter was made.

No other witness is produced by whom the petition and report of Sutter were seen prior to 1850.

The claimant himself, at the time of filing his petition to the Board, seems to have been ignorant of the nature of his title, for he speaks of it in general terms as a grant by Micheltorena to Josefa Martinez, and states that "he has been unable to obtain *possession of the said grant*, but that Josefa Martinez withholds it from him." Certainly, he does not here refer to the general title, which is the only grant exhibited in this case.

That the papers now presented were in existence in 1850, may be admitted. That fact is proved by Bassham and by Mr. Schleiden, who translated them at that time.

But the point to be established is, that Sutter had made a favorable report previously to the date of the general title.

The existence of such a report in 1850 no more proves this essential fact, than its existence and production to this Court in 1856.

Mr. Bassham, the friend of Bellamy, who produces these papers, swears that he received them from Josefa Martinez, or Matthews, her husband, in 1850; and that one of them stated that the papers, together with the grant, had been on deposit with some friend, but that the grant was lost—whether before or after the papers were returned, the witness does not remember.

It is to be observed that the witness does not state that the papers are now in the same condition as when received by him. I do not attach much importance, however, to this circumstance, as the inquiry might have been accidentally omitted.

But his statement with regard to what Josefa Martinez or her husband told him respecting the grant, deserves more attention.

They could hardly have referred to a copy of the general title, for we have already seen that the copy now produced, with the certificate of Sutter, has been recently obtained. If they referred to a grant directly to Josefa Martinez, such as the claimant evidently supposed to exist when he presented his petition to the Board, it is clear that they did not claim under the general title of Micheltorena—which is now set up as their original title. I have referred to these alleged declarations because they were put in evidence by the claimant, and because they seem to show that neither Bassham when he obtained the papers, nor Josefa Martinez when she delivered them, had any idea of asserting any rights founded on a petition, a favorable informe of Sutter, and the general title of Micheltorena.

According to Bellamy's account, the petition, after Sutter's report was obtained, was returned to Micheltorena. It is not explained how or when it subsequently passed into the hands of the petitioner.

Bellamy also states that upon receiving Micheltorena's assurance that the grant would be issued, he was put into possession by General Sutter. This statement is scarcely credible for several reasons:

1st. The order of Jimeno directed a reference to the Alcalde o

San José, as well as to Sutter. It does not appear why a compliance with that order was dispensed with. The report of Sutter merely certifies the land to be vacant. Information would naturally be desired by the Governor as to the qualifications of the petitioner, etc., as required by the regulations of 1828.

2d. If Bellamy means to say that he was put into possession by Sutter immediately after the return of the petition to Micheltorena, then Sutter acted wholly without authority, for not only no grant had been issued, but the informes required had not been obtained. If he means to say that he was put in possession after the general title had been issued, it is extraordinary that neither he nor the grantee or her husband applied to Sutter for a copy of the general title. That he did not, may be clearly inferred from his silence on the point. That the copy now produced has been recently prepared, has already been shown.

3d. The land in question was not within Sutter's jurisdiction, but belonged to that of the Alcalde of Sonoma. It is highly improbable that Sutter would have attempted to exercise such a function as that of putting a grantee in possession of land beyond the limits of his own jurisdiction.

4th. If these facts had occurred, Sutter would certainly have remembered them. He has not been examined. On this point, as well as on that relating to the time when he wrote the report, the omission to examine him on the part of the claimant is a pregnant circumstance against him.

After a most careful consideration, I have come to the conclusion that the testimony of Bellamy is not worthy of credit. The alleged occupation of the rancho by him, and the building of the corral, are disproved by such a mass of testimony as to leave no room for doubt on the subject.

His statement that Ridley first, and afterwards McDougal, took possession of and remained on the rancho until 1848, and that the former established a ferry, is disproved by the testimony of every other witness examined on the subject—including those produced by the claimant. No one of them ever saw or heard of these persons living on the land, nor was their house or other trace of occupation observed by any one—the corral seen by Major Snyder

being shown not to have been built by them, or to have been used for purposes connected with the settlement of the tract.

Under all these circumstances, the testimony of Bellamy with regard to the time when Sutter signed his report cannot be regarded as sufficient evidence of the fact; especially, when the testimony of Sutter himself is withheld.

The proof, then, of the date of this report is thus found to consist solely in the facts that the instrument has a date attached to it, and that it existed in 1850. But the presumption arising from the date that it was executed on that day, at all times weak, and indulged only in the absence of suspicious circumstances, is destroyed when we find in the same case a similar paper, executed by the same party, clearly antedated; and where the party who might have testified as to the time when he executed it is within reach, but is not examined.

If these observations be just, the claimant has entirely failed to establish by evidence that can be deemed satisfactory the essential fact, that at the date of the general title Josefa Martinez was one of those who had previously solicited lands, and obtained a favorable report from Sutter.

But the claimant's counsel rely with apparent confidence on the testimony of Bidwell and Larkin, with reference to the map made by the former.

Mr. Bidwell testifies that, by the request of Governor Micheltorena, he made, in the fall of 1844, a map of the Sacramento valley. This map is not produced, but another is shown to the witness, which he recognizes as a copy of the original "*in its general features.*" On this map the tract claimed in this case is laid down, and marked "Rancho de Bellamy." When cross-examined, the witness states that he is unable to say from what source he derived the information according to which he made his map. "That he does not remember to have seen the papers of Bellamy before they were shown him in Court; that it was a matter of general notoriety that Bellamy was trying to get a grant of land there."

Thomas O. Larkin testifies that his impression is that Bidwell made two maps from memory in Monterey. One he gave to the witness, the other to Micheltorena. The former continued in his

possession until it was produced before the Board in evidence, and it has since remained on file in the Surveyor General's office. A traced copy of this map is exhibited.

I have not been able to attribute to this testimony the force assigned to it by the counsel. Assuming that the map produced is an exact copy of that made by Bidwell in 1844, it merely shows that at that time he supposed this tract to be "the Rancho de Bellamy." Had he made the same statement orally or by letter, it would hardly be received as proof that Bellamy had obtained a grant for it. But the maker of the map is himself produced and disclaims all knowledge on the subject. That he did not derive his information on the subject from the archives is evident, for the archives contain no information respecting it. That he did not see the original documents is clear from his own admission, and from the fact that the application was made by, and the title, if any, was in favor of Josefa Martinez, and not of Bellamy. He himself sufficiently accounts for the designation of this tract on the map as the "Rancho de Bellamy," by his statement that "it was notorious that Bellamy was trying to get a grant for it." It was in all probability this fact which led him to mark the land on his map as Bellamy's rancho.

The map may perhaps be regarded as proof that at that time Bellamy, or Josefa Martinez and her husband, with whom he was interested, were petitioning for the land; and I do not understand that fact to be questioned. But it does not prove that they ever received a grant, or that Sutter's favorable report had been obtained before the general title issued.

To the unsworn declaration of Bidwell, as expressed by the map, that this tract was the rancho of Bellamy, may not unfairly be opposed the declarations of Sutter, made subsequently, that the land was vacant and ungranted, and his advice and assistance to McDowell to settle on it as such; as also the statement of Grant and other witnesses, who swore that they never heard of his claim.

On the whole, I consider that the claimant has failed to establish by satisfactory proofs that his assignor was one of the class in whose favor the general title issued, and that on this ground the claim should be rejected.

Lugo et al. v. United States.

But if this were less clear, I am of opinion that the neglect to occupy, or to render to the former government any of the considerations upon which the grant was made, if at all, establishes as a matter of fact and of law that she had abandoned all claim to the land before the change of sovereignty. That she never settled upon it, inhabited it, nor ever built a corral upon it, nor did any one else in her behalf, has been shown. That all the neighbors, including Sutter himself, regarded it as vacant up to the time of McDowell's settlement, is abundantly proved; and the omission to obtain a copy of the general title indicates that the claim was probably abandoned as worthless, if it does not justify the inference to which the failure of proofs has conducted us, that she was not one of the class in whose favor it issued.

In examining this case, I have sought to confine myself to the proofs which I consider legally admissible.

Upon a full consideration, I am of opinion that the claim ought not to be confirmed.

JUAN M. LUCO AND JOSÉ LEANDRO LUCO, CLAIMING THE
RANCHO ULPINES, APPELLANTS, *vs.* THE UNITED STATES.

THE claim rejected on the ground that the alleged grant is fraudulent and antedated.

Claim for a tract of land, quantity unknown, in Solano county, rejected by the Board, and appealed by the claimants.

CALHOUN BENHAM, for Appellants.

P. DELLA TORRE, United States Attorney, for Appellees.

The claim in this case is for a tract of land of from thirty to fifty square leagues in extent, constituting a sobrante, or surplus, between various ranchos mentioned in the title. It was rejected by the Board as spurious. The testimony is very voluminous. I have considered it with the attention due to its importance.

The claimants have offered in evidence a paper purporting to be the original petition of José de la Rosa to the Governor, dated October 18th, 1845, with a marginal decree of the latter, dated November 8th, 1845. Also the original grant, signed by Pio Pico, José Ma. Covarrubias, Secretary, dated December 4th, 1845, with a certificate of approval by the Assembly, signed by the same persons, and dated December 18th, 1845.

These papers are not produced from the archives of the former government, but were deposited in the Surveyor General's office on the twenty-fifth of October, 1853, by the claimants.

No claim was presented to the Board within the time limited by the Act of 1851. An application was therefore made to Congress, and a special act was passed July 17th, 1854, authorizing the presentation of the claim. This application was based upon the affidavits of Pio Pico and José Maria Covarrubias, which will hereafter be noticed.

It is contended, on the part of the United States, that all the papers in the case are spurious, and were fabricated long after the conquest of the country.

In deciding upon the genuineness of any title alleged to have been derived from the former government, the most satisfactory evidence which can be offered to the Court is that derived from the archives, and that afforded by a notorious occupation, and a claim of ownership recognized and acquiesced in, if not by the public authorities, at least by the neighbors and adjoining proprietors of the alleged grantee.

In the case at bar, the archives show no trace whatever of the existence of the grant. The petition and marginal decree are presented by the claimants from their own custody. No proofs are offered to explain why the claim was not sooner presented to the Board, nor where or in whose custody the documents have been since their alleged delivery to the grantee. The affidavits on which the application to Congress was founded were made in May and June, 1853. It is clear that neither to Pico nor Covarrubias was the original petition presented. In his deposition, taken before the Board, Covarrubias states that all the documents presented to him, when he made his affidavit, are, he believes, referred to in the

affidavit; and that as well as he can recollect, all the documents about which he was then testifying were presented to him. He is not very positive, however. He remembers that the expediente was shown him.

Had the witness before testifying adverted to the affidavit itself, he would have seen that he therein swears that, "he (De la Rosa) presented a written petition for said grant of land, but the affiant does *not know where said petition now is*. The practice with the office was to return the petition with the grant."

It will hardly be contended that the petition was before Covarrubias when he made this affidavit.

The affidavit of Pico refers exclusively to the "original document hereunto annexed, bearing date December 4th, 1845"—which was the grant.

Mr. Haight, who was consulted by the claimants as counsel, testifies that he saw, in 1853, the original document, that is, the grant; but is not positive as to the others, and that "the claimants represented to him that there were other papers in Mexico, which they would endeavor to get."

It is evident, therefore, that so late as the beginning of 1853 the petition had not been brought to light.

It is also obvious, from the tenor of the affidavits of Pico and Covarrubias, that the certificate of approval by the Assembly was not exhibited to them when their affidavits were taken. The affidavit of Covarrubias refers exclusively to the grant. Neither Mr. Haight nor Mr. Hawes pretend to have seen the certificate. It is produced for the first time in October, 1853, when it was deposited in the Surveyor General's office.

No explanation whatever of these circumstances is offered by the claimants, nor has any attempt been made to show how it happened that the petition and certificate became separated from the grant; how they, or at least the former, found its way to Mexico; in whose custody they were found, and when, and from whom and under what circumstances the person in possession of them procured them.

M. G. Vallejo, one of the principal witnesses relied on by the claimants, testifies that in the month of December, 1845, he received from the Governor, by a courier, the grant, which he de-

livered to Rosa. It was in an envelope which the latter opened, and the witness saw and read it.

In reply to the sixth cross-interrogatory, he states that the grant was the only paper received by him, and that he did not see the others. He also states that he never saw the certificate of approval, until he saw it in the Surveyor General's office; that he saw the petition when Rosa drew it, but that he does not know that Rosa had the petition after he received the grant.

To the twenty-second cross-interrogatory, he replies that he never saw the petition and approval attached together until he saw them in the Surveyor General's office.

José de la Rosa, the grantee, testifies that he drew the petition in 1845, and that in the latter part of that year he received it back again *with the title*. That the title was delivered to him by M. G. Vallejo in December, 1845, and that the certificate of approval was delivered *to him by Vallejo subsequently, in the year 1846*—in January or February of that year.

The credibility of the testimony of either of these witnesses will be considered hereafter. It is sufficient at present to say that neither pretends to account for the papers after their alleged reception by Rosa in 1845 and 1846. No inquiry was made of the latter as to whether he retained them in his custody; why he did not while the property remained his—that is, up to March 18th, 1853—present his claim to the Board; whether at the time of the transfer he delivered the papers to the present claimants, or if not—whether as stated by them to their counsel, Mr. Haight, about the same time—they were then in Mexico, and if so in whose custody, and for what reason sent.

In a case where the chief inquiry is whether the papers be genuine, information on these points ought not to be withheld.

We have seen that José Maria Covarrubias, in his affidavit in 1853, states it to have been "the practice with the office to return the petition with the grant."

This extraordinary statement is not only disproved by the notorious fact that the expedientes containing the petition, informes, orders and concession, were usually retained in the archives where they are now found—the grant or titulo being the only document

delivered to the party—but it is contradicted by the evidence of M. G. Vallejo, and by the testimony of Covarrubias himself. In his answer to the sixty-second cross-interrogatory he says: “The petitions and the balance of the expedientes were archived in the archives of the government. *This was the general practice before, while, and after I was Secretary.*”

It is to be regretted that the sense of the necessity of accounting for the absence of the petition from the archives, which may have suggested the statement of Covarrubias in his affidavit, did not lead the claimants then or since to offer a more satisfactory explanation of the circumstance.

The claimants can thus derive no aid to their documents from any presumptions of genuineness which might have arisen from their production from the proper custody. On the contrary, they are liable to the suspicions which their long delay in presenting them, and their entire failure to explain circumstances so clearly requiring and so easily admitting of explanation (if the papers are genuine) naturally excite.

Evidence has been offered to show an occupation by Rosa of the land said to have been granted to him.

The witnesses on this point are Alvarado, Victor Prudon, Mesa, Salvador, Vallejo, Carillo, Juarez and Ortega.

Alvarado swears that in 1849, Rosa told him in San Francisco, that he was occupying a rancho near Sonoma.

Victor Prudon testifies that in 1840 he knew Rosa to be in the occupation of a rancho called Julpines; that he had a house and corral on it, and that he remained there until 1846. The witness, on his cross-examination, admits that he never was on the rancho; that he knew of Rosa's occupation “from General Vallejo and common report,” and from his sending goods to the place by Rosa's order, or that of his mayor domo.

Mesa testifies that he knew Rosa to be living on and occupying a rancho in Solano county, long before the Americans came to the country; that he had an adobe house on the place, in which he lived with his family. He had a corral and horses, and some cultivation. That he visited Rosa at his house while he lived there. That he saw Rosa building the house, and that the cultivation was about one hundred varas square.

Salvador Vallejo swears that he knows Rosa has occupied the place ever since he obtained the grant—that is, in 1845 or 1846. That he had a house and corral, horses and cattle there, and a portion of the land inclosed and cultivated. That Rosa lived there with his family, but at times during the period he has resided at Napa, Sonoma and Monterey.

On cross-examination he states that he knows Rosa has continued to occupy the land, for it is on the road to Sacramento, and he, the witness, has frequently seen it in passing that way.

José Ramon Carillo testifies that he has frequently stopped at Rosa's house on the Rancho of Ulpines; that Rosa was living there with his family; that he had horses and cattle on it, and had erected a corral. The house was an adobe. That Rosa was still on the place when he (witness) left Sonoma two or three years after the Bear Flag war—that is, 1848 or 1849.

Cayetano Juarez testifies that he was in Rosa's house on the rancho in 1845; that it was built of poles, covered with board and tules; that it was near an estuary of the river; that it could not possibly have been seen from the road to Sacramento, it being eight or ten leagues distant; that there were eight or ten acres cultivated in wheat; that the house was situated about eight leagues from the road running from Sonoma to Sacramento; that on one occasion he lent him horses and carts to take his family to the rancho; that he had lent him horses on several occasions; that the cultivated land was not fenced, but appeared to have been plowed.

Ortega swears that in 1838 he saw on the land a house, built of poles and plastered with mud; that it was situated on the right hand side of the road as you go from Sonoma to Sacramento, about seventy varas from the estero; that he stopped there on his way to Sacramento, and that he saw the house from the traveled path before he turned off to go to it. There was no wagon road to it, but numerous paths made by cattle and elk.

José de la Rosa, the grantee, testifies that he occupied the land; that he kept his wild horses upon it during the year 1846; that they were three or four hundred in number, and marked with his brand, of which he gives a rough drawing. The tame horses, about

fifty in number, he kept at Sonoma. That in 1845 and 1846, he frequently visited his ranch with his family; but "he always went with his own horses—he never had horses belonging to any one else."

Salvador Vallejo testifies, in a second deposition, that he conveyed De la Rosa in his launch the first time he went to occupy Ulpines. That a house was built under his and witness' directions, and was built of poles and mud, and roofed with boards. That a piece of land was inclosed and cultivated there, and that the cattle on the rancho were owned by Rosa, but branded with the mark of M. G. Vallejo.

M. G. Vallejo states, in a general way, that he knows that De la Rosa occupied the rancho. He admits, however, that he never was on it after Rosa received his grant.

The foregoing comprises all the testimony adduced by the claimants to prove occupation by De la Rosa of the land.

It is apparent that the witnesses contradict each other on several material points. As to the extent of the cultivation, as to whether or not it was fenced, as to the material of which the house was composed, as to the brand upon the cattle, and especially as to the situation of the house, whether it was near to and visible from the road, or eight or ten leagues distant. The statement of one of the witnesses that he frequently lent horses and carts to De la Rosa is inconsistent with the declaration of the latter that he always used his own horses in going to his rancho, while the frequent voyages in the launch, as described by Vallejo, seem wholly to have escaped the recollection of De la Rosa.

It is unnecessary, however, to dwell on these contradictions, for the alleged occupation by Rosa of the land has been disproved by what I cannot but consider a clear preponderance of testimony.

It is in evidence that up to 1853, the lands were treated by the United States as public lands, and surveyed as such. Felipe Peña, one of the original grantees of the adjoining rancho of Los Putos with Baca, states that Rosa never built a house upon or occupied the rancho; that he is acquainted with the rancheros in that region, and never knew Rosa to be the proprietor or owner of any land.

Demetrio Peña makes the same statement.

John Bidwell, the original grantee of "Elichama," and who was acquainted with all the rancheros in that part of the country, states that the premises claimed in this case were never occupied or cultivated by any one to his knowledge, and that had De la Rosa lived on the rancho he thinks he should have known it.

José S. Berreyesa, who was Alcalde of Sonoma in 1846, states that he was asked by Don Agustin Bernal if he would report favorably to his (Bernal's) petition for the land, whether it was vacant and could be granted; to which he replied that it was vacant and unoccupied, and that so far as he (Berreyesa) was concerned, there would be no obstacle to the grant.

S. Cooper testifies that he was acquainted with all the rancheros in the neighborhood in 1846, and ever since; that he never heard of Rosa's having a grant; that there was no adobe house upon it. That he was assessor during the first two years California was a State; that all the ranchos were given in to be assessed except one—but this rancho was not given in by any one, and was not taxed.

William Denton testifies that in 1852 and 1853, as County Surveyor, he inquired of all the old rancheros in the neighborhood, and that from the information so obtained, he certified this land to be public land. That he has been conversant with the whole tract of country since 1852, and never saw any evidence of any old Spanish improvements on this land, or heard of any.

E. F. Elliott testifies that in the spring of 1846, Rosa moved into the same house with himself, and purported to be a school teacher; that he had no property, and since the war he has followed the business of a tailor, and sometimes worked in General Vallejo's vineyard. The witness further states that he was personally acquainted with the whole neighborhood, and worked in every rodeo; that his business was killing cattle for their hides and tallow, and that Rosa did not have, during the years 1846, 1847, 1848 and 1849, cattle to the number of from three hundred to five hundred, the same number of horses, or any less number, nor could he have had them without the witness' knowledge. That he never saw the brand delineated by Rosa on any cattle; that he would have seen it had it been there.

The witness gives from memory some sixteen brands which were upon cattle in the neighborhood. He further states that he has heard Rosa frequently complain of his poverty, but never heard him speak of having any property.

Elmsley Elliott swears to nearly the same facts. He states that Rosa's family has often come to his father's house begging for something to eat; that he has traveled all over the country, and has never heard of Rosa's owning the stock described by him; that Rosa has told him more than twenty times, from 1845 to 1849, that he did not own any such.

John Cameron, a witness for the claimants, who has resided in Sonoma from April, 1847, until March, 1854, stated that he never knew Rosa to be the owner of any number of horses and cattle. That he was acquainted with all the brands used from Sutter's to San Rafael, and he never had any pointed out to him as Rosa's brand; that he was generally supposed to be a very poor man.

It is unnecessary to recapitulate all the evidence on this point. A careful perusal of it has led me irresistibly to the conclusion that it is not proved that Rosa either occupied, built upon or cultivated this rancho. From the whole testimony in the case, as well on the part of the claimants as of the United States, it clearly appears that up to the latter part of 1844, Rosa's residence was in Monterey, where he was employed as printer. That in 1844, or the beginning of 1845, he came to Sonoma, where he resided with his family until after the conquest; that he was poor, and obtained his livelihood by mending clothes and watches, and similar occupations.

From 1846 to 1848, it is stated by one of the claimants' own witnesses, (J. P. Leese) that he lived with General Vallejo, to whose children he taught music, and that Vallejo, from charitable motives, gave him an opportunity to support himself.

Since the organization of the Board of Commissioners, he is stated by one of the witnesses to have added to his ordinary business as a tailor, the more profitable profession of testifying in land cases.

No one can read the depositions of the numerous witnesses who testify as to his continued residence in Sonoma, as to his circumstances and means of livelihood, and avoid the conviction that his

statement as to the occupation of the rancho, his ownership of fifty tame and three or four hundred wild horses, etc., is incredible.

To all this may be added the repeated declarations of Rosa, that he never owned a rancho, and had never applied for one.

This last evidence, however, is met on the part of the claimants by that of George C. Yount and Narciso Botello. The first of these witnesses swears that sometime in 1846, Rosa told him he had a rancho, and to the best of his (witness') belief, stated that it lay between Baca and Bidwell's ranch, and was called Pulpones or Pulpines.

Narciso Botello swears that he remembers that while a member of the Assembly he heard some talk of an application by Rosa for a grant in Sonoma; that he does not know whether he ever obtained the grant, nor was he informed of the fact until he recently saw the papers exhibited by the claimants.

The circumstance stated by Botello may perhaps explain the testimony of Mr. Yount. It may be that Rosa did endeavor to obtain a grant, or that "there was some talk about it," and he may have stated that fact to Mr. Yount. At all events, I do not feel at liberty to receive this testimony of an isolated declaration as outweighing the evidence of so many witnesses, who testify as to his residence, his mode of life, his means of livelihood, and his repeated declarations that he owned no rancho whatever.

Having thus seen that no evidence of the authenticity of this grant is afforded by the archives of the former government, nor by the production of the documents from the proper custody, nor by proof of an occupation of the land, we proceed to consider the evidence as to the genuineness of the signatures.

A large number of witnesses testify, on the part of the claimants, that in their opinion the signatures of Pio Pico are genuine.

On the part of the United States, several witnesses testify that they believe them to be forgeries; and one of them expresses the opinion that they were written by the person who wrote the body of the instrument—that is, by Covarrubias.

It is admitted by all the witnesses for the claimants that the signatures of Pico in these documents are unlike his usual mode of writing his name, although it is stated by them that his mode of

signing his name was not uniform. The deposition of Pico himself has been taken since the case was appealed, but a traced copy of the grant, and not the original, was submitted to him. The testimony of Pico is singularly guarded. He says he cannot now remember in regard to the original document, "but the signature as it appears in the traced copy *appears* to be my signature, and I *believe* my signature was placed to the document at the time it bears date." He repeats *totidum verbis* the same answer to three successive interrogatories.

To the seventh interrogatory he answers: "I do not now remember of the grant of land mentioned in the interrogatory, except from the papers shown me, and therefore cannot state further in regard to it."

In answer to the first cross-interrogatory he says: "My statement in regard to my signature is made from inspection of the papers now presented to me, and not from recollection of signing the originals. I believe, however, from my best recollection, that the original documents were signed by me at the time they bear date."

To the second cross-interrogatory he says: "I speak of the papers as they are now shown me, and not from recollection of the events as they transpired."

It is evident that the testimony of the witness merely amounts to a statement that the signature, a traced copy of which is shown him, *appears to be his*. But the fact of the application for, or issuance of the title, he is wholly unable to recollect.

The depositions of John W. Shore and Joseph A. Hinchman have also been taken since the appeal.

These witnesses testify in substance that there is now on file in the County Clerk's office, at Los Angeles, a document purporting to be signed by Pio Pico, a traced copy of which is annexed to their deposition. One of them swears that he believes the signature to be genuine. The document is dated October, 1845, and the signature somewhat resembles, in the formation of the "P's" in Pio Pico's name, the signature in the case at bar. It differs from it, however, very perceptibly. It is this resemblance, such as it is, which alone gives importance to the testimony. But un-

fortunately it does not appear that this document is genuine. Shore testifies, April 24th, 1857, that it had been in its present custody, to his knowledge, about three years and a half. Whether it was then filed for the first time does not appear. A document filed at the end of the year 1853, with a signature resembling those now in question, cannot certainly aid the claimants. Shore, it is true, expresses his belief that the signature is genuine, but his testimony is of no greater force than if he had expressed the same belief with regard to the signatures to the papers in this case. It is but one more witness in addition to prove the genuineness of the signature. It is worthy of remark that Pio Pico is not himself asked whether his signature to this document is genuine, although he resides in Los Angeles county, where the original is kept, and was, it is presumed, accessible.

Since the cause was submitted, the Court being desirous of obtaining more full information from the archives, directed an examination of them by Mr. Hopkins, the clerk in charge. Mr. Hopkins was therefore examined by the Court, with liberty to either side to cross-examine him. From Mr. Hopkins' testimony it appears that the signature of Pio Pico appears in various expedientes on file in the archives two hundred and ninety-eight times; that on the journal of the Assembly it occurs one hundred and thirty-one times; and on various grants in 1845 and 1846, about one hundred times.

The signatures in the expedientes, and on the journals, are remarkable for their uniformity. Those on the expedientes are exactly similar, without a single exception; those on the journals are also uniform, with the exception of a single sheet, signed "Pico." This appears to be a loose borrador, or blotter, and the signature is unlike any other that appears in the records.

The one hundred signatures in the grants present the same uniformity, with some exceptions. The first is that in the case of Prudon and Vaca, hereafter alluded to. Mr. Hopkins expresses the opinion that it is a forgery.

The next is a signature bearing a striking resemblance to that last mentioned. It is attached to the certificate of approval of the grant of Petaluma to M. G. Vallejo.

The next is the decree of concession in case number six hundred

and forty-eight, before the Commission. It differs, says Mr. Hopkins, from all others that he has seen. The "P's" are made somewhat in the style of those in the present case. The remaining signatures are attached to various documents, dated from January to July, 1846.

All these last differ from all others. They are all uniform and resemble each other. They differ from all others in the form of the "P's."

A letter written by Pio Pico, as administrator of a Mission in 1839, is also produced. The signature resembles that in the present case. No similar signature occurs later than 1839. At that time he appears to have used this last form of signature, and that previously described, indifferently. All these documents were produced in Court, and submitted to inspection.

From the foregoing it appears that from the beginning of his official career, up to the year 1846, throughout all the expedientes on the journals of the Assembly, (with the exception of one sheet supposed to be a borrador) and in every grant, with three exceptions, Pio Pico's signature was marked by a uniform and striking peculiarity. That in grants made during 1846, he sometimes used another mode of signature; that this mode is also uniform and similar to that now used by him, as it appears on his affidavit, deposition, etc., in this case.

The three exceptions among the grants made previously to 1846, are first, that to Prudon and Vaca, which is supposed to be a forgery, and which is obviously intended to imitate his usual signature; second, another closely resembling it; and a third, differing from any other, and somewhat resembling that in this case.

Of all of these numerous signatures, not one made since 1839 is found which in any respect resembles those in the grant in this case, except the solitary instance last mentioned which, as Mr. Hopkins states, differs from all others, though it somewhat resembles those in this case in the form of the "P's."

It thus appears that of six hundred and twenty-eight signatures made previous to 1846, all except four are uniform. That of these four one is attached to a borrador or blotter; the second is pronounced a forgery; the third strikingly resembles the second; the

last is unlike any of the others. No one except the last resembles in any respect those in this case.

It is not enough, therefore, for the claimants to show that Pio Pico had various ways of signing his name. They should prove that the mode adopted in this case was one of the modes used by him. This they have sought to do by exhibiting documents made previously to 1839, but none since. Of six hundred and thirty-nine signatures made since that time, all are uniform except fourteen, and only one bears a resemblance to those in this case.

On the very day which this grant purports to have been issued, his signature appears to other grants, exhibiting its marked and uniform characteristics. In the journals of the Assembly it occurs one hundred and thirty times, uniform and peculiar. It was certainly a strange accident that in this one grant he did not adopt the mode of signing which he was then, and for a long time previous had been daily using in his official transactions, but recurred to a mode of signature not used by him since 1839.

All proof of handwriting except the direct evidence of those who have witnessed the act of writing is but opinion, founded on a mental comparison of the writing in question with other writing of the same party which the witness has seen. But if, as in this case, more than four hundred specimens of a signature of a party are presented, no one of which is found, except those made previously to 1839, to resemble that in question, the opinions of witnesses who pronounce it genuine from its resemblance to other signatures become of little importance. It will be urged that he did use this signature in 1839, and therefore *may* have used it in this instance. It is undoubtedly possible that such may have been the case, but it is in a high degree improbable that amongst so great a number of signatures marked by a uniform and striking peculiarity, he should, in this instance, have adopted a mode of signature resembling that occasionally used by him six or seven years previously.

The suspicion involuntarily suggests itself, that the grant was not made at the time it bears date. But that Pio Pico himself, or some one who has forged his name, has by mistake adopted a signature different from that which at the date of the grant, or subsequently, he was in the habit of using.

On the part of the claimants, M. G. Vallejo, Alvarado, José Castro and Salvador Vallejo testify that they are acquainted with Pio Pico's signatures, and believe those on the documents in this case to be genuine. The last witness says that he has seen Pio Pico's name to grants, and that the "P's" in the signatures to the documents are made in his usual style; he also states that Pio Pico wrote his name with uniformity. The gross inaccuracy of both of these statements will not be disputed.

M. G. Vallejo states that Pio Pico made his "P's" like those in this case in his common writing. He has seen such in his grants and approvals, and common writing which he knew to be his. He cannot recollect any particular grant in which the letter is so made. The testimony of Mr. Hopkins exposes the error of this statement. Upon a grant by Pio Pico being shown to the witness, he admitted that there was no resemblance between the signature to that document and those in the case at bar, and accounts for it by the observation, "that he may have had more room in that grant, or was perhaps in a different humor."

Andreas Pico swears that the signatures appear to be the true and genuine signatures of Pio Pico. That he formed his opinion by comparing them with those he has seen. That he has seen a great many in the archives.

Manuel Castro, De Zaldo and Benito Diaz all express the opinion that the signatures are genuine. To this testimony may be added that of Botello, who swears that in his opinion the signatures are genuine.

On the other hand, Richardson, Wm. Carey Jones, James Wilson, a former member of the Land Commission, and Thomas O. Larkin, all testify that in their opinion the signatures are not genuine.

Orlando McKnight testifies that he has been much accustomed to examine and compare handwritings and considers himself capable of judging whether a document is written in an assumed hand. On examining the documents in this case he expresses the opinion that the signatures of Pio Pico were signed by the person who wrote the body of the instruments, that is, by Covarrubias.

On comparing these signatures with seventeen signatures of Pio

Pico, found in the records of the Departmental Assembly for 1846, he says that the letters of the name of Pio Pico in the former, as also the rubric attached, have the stiffness and clumsiness difficult to avoid in an imitation, while the seventeen signatures appear natural, easy and without restraint. On making a very close examination of the seventeen signatures with dividers, he states that he never saw a more uniform signature.

J. H. Purdy, also an expert, is inclined to believe that the signatures to the document are in the same handwriting as the body of the instrument, but is not positive. On comparing these signatures with those in the record of the Assembly, he says that the differences between them consist in the form of the "P's," and in that of the rubrics, also in their general appearance; that the rubrics in the record, "though more condensed in width, fall farther below the line of the writing of the signature than those in the documents in this case.

It ought perhaps to be added, that neither of these witnesses professes to have any familiarity with Spanish documents, or practice in comparing handwritings in that language.

Col. Jonathan D. Stevenson testifies that he has corresponded with Pio Pico, and seen many documents purporting to be signed by him; that in none of them did the signatures resemble those in this case. That these last are bolder and larger than Pio Pico's usual signature, and the form of the letters, particularly that of the "P's," is unlike his genuine signature. He also thinks, from inspection, that the body of the documents and the signatures were written by the same hand, and with the same pen and ink. When asked to explain why he does not believe these signatures genuine, he says, "To use a school-boy's phrase, I think these letters were 'painted,' after they were formed. The difference is more easily pointed out than explained."

I have thus recapitulated, perhaps unnecessarily, all the evidence as to the genuineness of the signatures.

It is certainly not overstating its force to say that it leaves it open to the gravest suspicions—suspicions which the inspection of the originals has not tended to weaken.

At the end of the grant produced by the claimants, is the memo-

randum signed by the Secretary, Covarrubias, stating that a note of the title had been taken in the corresponding book. This Covarrubias, in his deposition, states to have been done. The "corresponding book" is found in the archives, but it contains no note of this grant. Covarrubias swears that the book in which he entered this grant was not the one now produced. That it was not bound, but composed of sheets of paper sewed together. That in it were entered various "tomas de razon," in the handwriting of himself and of his two clerks. That he was in the habit of placing his initials "J. M. C." at the bottom of each entry. The entries for 1845, in the book now produced, are in the handwriting of Francisco Lopez, one of his clerks at that time.

This statement is corroborated by the testimony of Nareiso Bortello. This witness swears that the book found in the archives is not that used by the government for the registry of titles at Los Angeles. That the latter was a *Cuaderno*, with loose leaves without binding, and generally in the handwriting of Covarrubias. He states that the writing in the last part is that of Francisco Lopez, and that on page seven to be the writing of Don Augustin Olvera, the Governor's secretary.

On the other hand, Thomas O. Larkin, a witness produced by the claimants, testifies that he was acquainted with the books in the office of the Secretary during the years 1845 and 1846. That there was only one book, and he believes the book produced from the archives to be the one referred to by him. That he saw this book in the Secretary's office in the time of Micheltorena, and also among the archives when they were delivered over to the Americans in August or September, 1846.

No other book of "Tomas de Razon," for 1845, is found in the archives, and the testimony of Mr. Larkin would seem sufficiently to identify it as that in which the entries for that year were made. But even admitting the accuracy of Covarrubias' statement, it is evident that as the entries are in the handwriting of one of his clerks, and the book was delivered to the Americans in 1846, among the other public records, the entries must have been made nearly contemporaneously with their dates. It is possible, however, that they were copied from some loose sheets or "borradores," such

as those spoken of by Covarrubias and Botello, and the absence of any note of this grant is not, therefore, entirely conclusive as to its genuineness.

On examining this book, however, it appears that with one exception, every grant in colonization, of which the expediente is found in the archives, or which has ever been presented to the Board, made from March, 1845, to December of the same year, the dates at which the entries begin and terminate, is found duly noted, as of the day on which by the memorandum on the grant the note appears to have been taken.

This grant purports to be in favor of Victor Prudon and Marcos Vaca, with an informe by José de la Rosa, and a provisional license to occupy signed by General Vallejo. The expediente in this case was not found in the archives, but was deposited by the plaintiff's counsel on the ninth of February, 1852. This grant was rejected by the Board as spurious. Its date is on the twentieth of December, 1845. The last entry in the book is December 23d, 1845. Admitting that it is genuine, the absence of a note of it in the *toma de razon* is no impeachment of the accuracy of the book.

But with this exception, the entries are complete. On the very day (December 4th) on which the grant in this case purports to have been made, two other grants were made and duly entered; on the day previous, one; and another seven days afterwards.

Conceding, then, that the book now found in the archives was copied from loose sheets, containing the original contemporaneous entries, how can we account for the fact that this grant alone, of all those made during the period over which the entries extend, (with the exception above noticed) has been omitted? It is a circumstance pregnant with suspicion.

It is suggested that it is possible that entries in the book now produced may have been taken from the expedientes on file; and as the expediente in this case was not on file, but returned to the party, this grant was omitted. This hypothesis is ingenious but highly improbable. It is to be borne in mind that the book now produced was found among the archives. If it be a copy of that on which the original entries were made, it was made under the former government. The borradores or loose sheets spoken of by

Covarrubias and Botello have disappeared. If, then, a clerk of the former government prepared this copy, he probably did so, not from the expedientes on file, but from the borradores, which, according to Covarrubias, existed so late as the spring of 1846, when he went out of office. The fact that these borradores have disappeared, and that the book now produced alone remains, favors the hypothesis that they may have been destroyed when the copy was taken. If this be so, it is as difficult to suppose that an entry of this grant was accidentally omitted, in a copy otherwise so complete and accurate, as to suppose it to have been omitted on the book in which the entries were originally made. In either case the hypothesis, if not impossible, is in a high degree improbable.

The certificate of the approval of the Departmental Assembly is dated December 18th, 1845. The resolution of approval appears to have passed on the eleventh of the same month.

The records of the proceedings of the Assembly at the close of 1845 and beginning of 1846 are preserved. They show that on the eighth of October, 1845, "The *sessions* of the Assembly were suspended for the *rest of the year*, in consequence of permission having been granted to the Señores Deputies who reside out of this capital, to retire to the places of their residence, in view of the injuries they must suffer in consequence of their salaries due them respectively as functionaries not being paid."

A publication of the foregoing in all the pueblos of the department was ordered to be made October 11th, 1845.

The next session of the Assembly, as shown by its journals, was on the second of March, 1846. The journals state that the Governor and certain deputies, who are named, had "assembled for the purpose of reopening the ordinary sessions, which, by a resolution of the body, had been suspended for the balance of last year. Whereupon the proceedings of the eighth day of October of the last year were read and approved," etc.

It is evident that no ordinary session of the Assembly was held on the eleventh of December, the day on which this grant is certified to have been approved.

It is contended, however, that extraordinary sessions were held,

of which no record was kept, and the testimony of several witnesses has been taken to establish the fact.

Juan Bandini testifies that he was elected a member of the Assembly in 1846, and took his seat in the beginning of that year; that he knows that an extraordinary session was held from the eighth of October until the end of the year 1845; that the ordinary session was commenced in the month of February, 1846, and of this he was a member. The business transacted at the extraordinary sessions related to the mission of one José Maria Hajar, and the confirmation of land titles, and granting the same.

Santiago Arguello makes the same statement in almost the same language. Both repeat several times that they took their seats in the ordinary session, held in February, 1846; according to Arguello, about the first of that month.

Unfortunately for these witnesses, the record of the first ordinary session of 1846 is preserved, whereby it appears, as we have seen, that the Assembly resumed its ordinary sessions on the second of March, and not on the first of February; that the proceedings of the last ordinary session, to wit, that of the eighth of October, 1845, were first read and approved, and that the next business transacted was the reception of the credentials of Don Juan Bandini and Don Santiago Arguello; that the usual proceedings were on motion dispensed with; that the newly elected members were received by a committee of the body; that after making oath, as prescribed by law, they took their seats, and were congratulated by the Hon. President, who expressed his pleasure at their incorporation into the body.

It is singular that both of these witnesses should have fallen into the same error with reference to a fact of which they speak so positively. It justifies the suspicion that they may also be mistaken in their statement that extraordinary sessions were held from October eighth, until the end of the year. The journals of the Assembly show that secret and extraordinary sessions were held on various days between March 4th, 1845, and October 8th, of the same year. They frequently took place on the same day with an ordinary session, and the journals of the latter mention that the Assembly went into secret session on the motion, etc. These secret

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or extraordinary sessions appear to have been not unlike the executive sessions of the United States Senate, except that in some instances the proceedings at a secret session were read and approved at the next ordinary session.

But the extraordinary or called sessions which are supposed by the claimants to have taken place at the end of 1845, after the suspension of the ordinary sessions for the rest of the year, are of a different character. A document is found in the archives, however, which seems to favor the idea that such may have been held. A committee, to whom a motion that the Assembly dissolve itself or adjourn was referred, reports that it had no such power, as it was always in session as the council of the government; and they recommend that, after dispatching some pressing business which would come up in October, the Assembly suspend its ordinary sessions for the rest of the year, and that permission be given to the deputies residing at a distance to return home.

The resolution of adjournment passed October 8th seems to have been in pursuance of this recommendation.

The cause having been reopened since its first submission, the evidence of Narciso Bartello was taken in Court.

This witness states that though he does not recollect the fact, he has no doubt that there were extraordinary sessions in 1845, for he has seen documents which show it. A document from the archives was shown to the witness, which he stated to be in the handwriting of Don A. Olvera, Secretary to the Governor. This document appears to be a "*letra convocatoria*," or summons, to the members of the Assembly, to meet in extraordinary session. Whether or not the session took place the witness is unable to recollect, but he presumes, from the summons, that it did. If there were any such in December, the witness states that he must have attended them, unless prevented by illness.

From all the evidence that can be obtained, I think it not impossible that extraordinary sessions may have been held after the adjournment of the eighth of October.

The cause of that adjournment, however, as declared in the resolution above cited, is somewhat inconsistent with the idea that the members immediately reassembled in extraordinary session. If

they did so, the record of their proceedings has been lost by another of those unfortunate accidents which have attended this case at every step.

But in addition, it is not a little remarkable that if a part of the business of this extraordinary session was the confirmation and granting of titles, no title whatever of all those granted previous to the second of March, 1846, appears to have been approved at any extraordinary session of the Assembly, between its adjournment on the eighth of October, and the reopening on the second of March, with two exceptions—the grant in this case, and that of Victor Prudon, above noticed. Every other grant made subsequently to the eighth of October, and among them one dated December 4th, the very day on which this title purports to have been issued, was reserved until the ordinary session of March, and was at that session, as appears by the record, presented and approved.

It is also worthy of observation, that Narciso Botello does not pretend to recollect that an extraordinary session was in fact held at the time at which it appears to have been convened—still less that at any such meeting this grant was approved. He left Los Angeles on the twenty-fifth of December. The resolution of approval was passed, if at all, on the eleventh. The grant was large, and in payment of public dues. Had he been present at any session at which it was discussed and approved, it would seem probable that he would have recollected it. His failure to do so, however, is by no means a strong circumstance against the genuineness of the certificate. It deserves, however to be noted and considered amongst the other circumstances of the case.

But the United States have produced direct testimony to prove the time and place at which these papers were fabricated. Rafael Guirado testifies that in the month of August, 1853, about nine o'clock, A. M., José de la Rosa, in company with the Messrs. Luco and Salvador Vallejo, came to the house of General Vallejo and inquired for the latter. After about two hours he came in, when they all entered his office, where they seated themselves at a table. The witness overheard their conversation, which related to "settling" the Rancho of Ulpines. General Vallejo offering to put three hundred mares upon it, etc. The next day a similar in-

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interview took place, and after the rest were gone, General Vallejo said to the witness, "I am transacting some important business," and asked if he had overheard it. To which the witness replied that he had. The General, after some expressions of his confidence in the witness, proceeded to inform him of the "plan" they had arranged. "The title," he said, "we have made in the name of Rosa. It supposes a certain amount to be due him as printer at Monterey; that his brother Salvador had gone to Los Angeles and succeeded in obtaining the signature of Pio Pico to the title." The witness then said to Vallejo that the title was false, to which the General replied, "I know it. It is in this way we have planned; how can it be false, it has the signature of Pio Pico?" After some further conversation detailed by the witness, General Vallejo said in reply to an observation by the witness, that the title was void, and it would in time be discovered. "In that case it would be diamond cut diamond," and he explained this expression to mean that if there were six or seven persons to swear that the title is null (nulo) he would bring ten or twelve to swear to its genuineness. If this story be true, the character of this claim is placed beyond a doubt.

Guirado has, however, been impeached by various witnesses on the part of the claimants, and sustained by perhaps an equal number on the part of the United States. It would be useless, perhaps impracticable, to attempt to decide upon a comparison of this testimony whether or not his character is such as to justify a belief in his statements. Whatever it was, whether infamous or respectable, one fact is clear, that General Vallejo, so late as March, 1855, corresponded with him on terms of friendship and intimacy. The relations which General Vallejo's letter of March 4th, 1855, show to have existed between them, must either relieve Guirado from the imputations cast upon his character, or that of Vallejo himself must in some degree be compromised.

If Guirado's testimony stood alone, and if in other respects this claim seemed fair and genuine, I should hesitate long before rejecting it on the faith of such a statement. I have alluded to it as an item of evidence entitled to consideration.

It is urged that according to this story, the signatures are the

genuine signatures of Pio Pico, though the document may be antedated, and it disproves the theory of the United States that they are forged.

To this it may be replied, that General Vallejo may not have known, or may have been unwilling to disclose the name of the person who forged the signatures. The risk of punishment to him would be far greater than to those who merely expressed an opinion as to their genuineness, or Pio Pico may in fact have signed the document, but have forgotten to adopt the mode of signature used by him at its date.

Since the case was reopened, testimony has been taken with regard to the seals. It appears by the evidence of Wm. B. McMurtrie, that the impression or seal on the grant in this case is different, and evidently made by a stamp different from that used on the petition and the certificate of approval.

The impressions on these latter are identical with those used on various expedientes and grants exhibited to the witness. Four of these were produced in Court, dated at various times from April 21st, 1843, to May 2d, 1846.

The impression on the grant in this case is entirely dissimilar, and the witness not only expresses the positive opinion, but demonstrates that it could not have been made with the same seal as that used on the other documents. Photographs have been taken of these impressions, and the difference is obvious on inspection. How then is this fact to be accounted for? Covarrubias swears that he recollects of only one seal being used in the office of the Secretary. How happens it that the petition and certificate bear the impression of the genuine seal, while the grant has an impression of one which, if not proven not to be genuine, is not found on any other document in the archives? It is true that this fact is not specifically sworn to by any witness, but since the testimony of McMurtrie was taken, ample opportunity has been afforded to the claimants to examine the archives. If a seal similar to that on the grant could have been found, it would doubtless have been produced.

It is argued that this testimony establishes at least the genuineness of two of the seals on these papers, even though it casts a doubt on the third. But we have already seen that at the time the

grant was exhibited to Covarrubias and Pio Pico to procure the affidavits on which the action of Congress was founded, it was unaccompanied by either the petition or the certificate of approval. How these papers were separated from the grant, or how since reunited to it, does not appear. The difference, therefore, in the seals, tends to corroborate our suspicions that the petition and certificate may have been prepared subsequently to the grant, as they certainly did not appear in the cause until long after the production of the grant to Covarrubias and Pico.

It does not appear where or in whose custody the seal of the former government now is; and if any one of the documents exhibited bears a spurious seal, it throws a doubt upon the genuineness of them all, which is not dispelled by the fact that on two of them the seals appear to be genuine.

Another circumstance is also worthy of observation. Eleven expedientes have been produced from the archives, with a view of exhibiting not only the signatures of Pio Pico, but his title or the description of his office, as contained in the headings of the grants.

These expedientes are regularly numbered, and are dated at various times from November 22d, 1845, to December 19th, 1845. In all of them Pio Pico is described as "Vocal decano de la asamblea departamental y Gobernador provisional de las Californias."

In the grant produced in the case at bar, and in the certificate of approval, he is described as "Vocal decano de la Exma Asamblea del Departamento de las Californias y encargado del gobierno del mismo por ministerio de la ley."

It is singular, that if this grant be genuine, the Governor should in this one instance have deviated from the form which he had been using almost daily in his official acts for a considerable time, and which he adopted in three grants undoubtedly genuine, made on the very day on which this grant purports to have been issued.

It is another of those extraordinary accidents which it is difficult to suppose could all have occurred by a kind of fatality, in one unfortunate case.

From the foregoing review of the evidence in this case, it is, I think, apparent that at every point it is liable to the gravest suspicion.

We find that papers constituting a complete title for one of the most valuable ranchos in California have been unaccountably withheld from the Board appointed to ascertain their validity, until the time for presenting them has expired, although the lands are situated in one of the most fertile and inhabited districts of the State, and although all the neighbors of the grantee, including his friend and patron, General Vallejo, duly presented their claims for confirmation.

We find that when the grant was submitted to counsel for inspection, and to Pico and Covarrubias for their affidavits, if indeed it was the same paper as that now presented, it was certainly unaccompanied by the petition, and almost certainly unaccompanied by the certificate of approval.

That these papers have since been produced attached to the grant, but when and by whom we know not. That the petition is found, not in the archives, which was the legal and usual place of custody, but in the possession of the party, though the secretary of the government has no recollection of ever having withdrawn any expediente from the archives, nor does he remember sending any document whatever to the grantee in this case.

How, and why, and when, and by whom this petition was obtained from the archives, we are wholly uninformed, except by the statement of De la Rosa that it was delivered to him by Vallejo, which the latter denies. Why and how it became separated from the grant is likewise unexplained, as is also the singular fact that, having this petition in their possession, the claimants should have procured from Covarrubias the affidavit stating that he did not know where it was, and "that the practice was to return the petition with the grant."

If it was not then in the claimants' possession, where was it? In whose custody? And how and whence has it been procured?

We find also that the pretended occupation by De la Rosa of this land has been disproved by so great a preponderance of evidence as to suggest the most painful suspicions.

We find the archives not only failing to exhibit any trace of the existence of the grant, but unless a series of extraordinary accidents be supposed, absolutely disproving its existence.

We find that the signatures of the Governor, though sworn to as genuine, are by many disinterested witnesses declared to be forgeries; while the Governor himself testifies with caution and reserve, and is wholly unable to recollect a single circumstance connected with the grant.

We find that in the opinion of many respectable persons, the characters of the principal witnesses for the claimants are such as to render them unworthy of belief.

And finally, we find the suspicions of the fraudulent character of this claim, so vehemently excited by every circumstance attending it, are confirmed by the detailed and circumstantial disclosure by a witness who, whatever his character, was certainly in the confidence of General Vallejo, of the time and place and manner of its fabrication.

Such an array of proofs I confess myself unable to resist. But in addition :

To hold this grant genuine we must suppose that by some unexplained accident, and contrary to custom, the petition was delivered to the party—that it remained with the grant in his possession, unseen by any one, and unsuspected by almost all of his neighbors and intimate associates. That the owner of so valuable an estate was content to remain a dependent upon the bounty of a wealthy friend, or to obtain a livelihood by mending clothes and similar employments, and never himself thought, or was reminded by his friend, of the necessity of presenting his title for confirmation. That he has frequently and without a motive declared that he never obtained any grant whatever.

That the petition, the grant, and the certificate of approval, though together in the possession of the grantee, were by some unexplained accident separated when he transferred his title to the claimants. That the first and the last documents, after disappearing for a time, were in some unexplained way recovered, and reunited to the grant after the papers had been submitted to counsel and affidavits to be laid before Congress had been procured.

We must further suppose that the note of the grant was taken in a book which has disappeared. That in the book which remains, and is by one witness identified as the book in which titles were

noted, a note of this grant was by some strange accident omitted, although every other grant issued during the period over which the record extends is found duly noted.

We must suppose that in this instance, almost solitary, the Governor made an extensive grant without requiring a single report or informe, and has entirely forgotten the circumstance.

We must further suppose, that the Departmental Assembly held an extraordinary session, of which their journals contain no trace, and this after a formal adjournment for the rest of the year, and after permission given to the members to return home. That the journal of their proceedings on reassembling alludes to the fact of their previous adjournment for the balance of the last year, and shows that the reading and approval of the proceedings of the last ordinary session was the first business transacted, while all mention of the supposed extraordinary sessions in the interval is omitted.

We must further suppose, that all the grants issued in the interval between the adjournment on the eighth of October, and the reassembling on the second of March, were reserved by the Governor until after the ordinary sessions had recommenced, with the exception of this grant and one other rejected by the Board as spurious.

We must suppose that the Governor—although his name appears to public documents of various kinds, signed with singular uniformity several hundred times—in this instance adopted a mode of signing, either never on any other occasion made use of by him on official documents, or long disused. And this, notwithstanding that on the very day on which this grant was signed, as well as before and afterwards, his signature appears on various documents, exhibiting the same uniform and striking peculiarities visible throughout all the records of his official action.

We must suppose that the seal used on this grant is genuine, though it was not only different from that used on the petition of the eighth of November, and from that on an expediente of the nineteenth of December, but different from any elsewhere found in the archives, and this without proof that there was more than one seal, and in the face of the declaration of the secretary that there was *but one*.

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And finally, that a wretch has been found with intelligence and depravity enough to invent and swear to a detailed and circumstantial account of the fabrication of these documents.

Such a series of improbable hypotheses I have found it impossible to believe.

I have given to this case an unusual degree of labor and attention, and have endeavored to arrive at a just and impartial conclusion.

My conviction is that it ought not to be confirmed.

THE UNITED STATES, APPELLANTS, *vs.* CHARLES FOS-
SAT, CLAIMING THE RANCHO LOS CAPITANCILLOS.

WHERE a cause is remanded for further proceedings, involving additional proofs, the United States are entitled to a reasonable time in which to close their testimony.

This was an application by the District Attorney for a continuance, in order to produce further testimony.

P. DELLA TORRE, United States Attorney, for the continuance.

A. P. CRITTENDEN, against it.

This cause having been set for a hearing on this day, a continuance is moved for on the part of the United States, in order that further testimony may be produced. The motion is strenuously resisted on the part of the claimant.

To determine whether the Court, in the exercise of its discretion, should grant it, the previous proceedings in the cause should be adverted to.

The transcript from the Board of Commissioners was filed in this Court on the second of November, 1854. A notice of appeal by the United States was duly filed February 20th, 1855.

The cause remained pending in this Court until August 13th,

1857—a period of two years and six months—when the proofs on both sides having been closed, it was argued and submitted.

No suggestion on either side was then made that the cause was not fully ready for hearing, nor any application for further delay, nor was it intimated by the parties that any further testimony was desired or could be obtained.

The decree of this Court was signed on the seventeenth of August, and an appeal having been taken by the United States, it was heard by the Supreme Court at the last term.

The mandate and opinion of the Supreme Court were filed in this Court on the seventeenth of June, 1858. By the mandate the cause was remanded to this Court, with directions to enter a decree in conformity to the opinion of the Supreme Court.

By that opinion it appears that in entering the decree, “the external boundaries designated in the grant were to be declared by this Court from the evidence on file, *and* such other evidence as may be produced before it.”

The mandate and opinion having been filed on the seventeenth of June, a motion was made on the twenty-third of June, that a decree be filed designating the external boundaries, as directed by the Supreme Court. On the application of the District Attorney, the hearing of this motion was postponed until June 30th. On that day the District Attorney stated that he desired to produce further testimony on the part of the United States, and an order was made referring the cause to a Commissioner to take proofs, with liberty to either party to move to set the cause for a hearing in default of due diligence on the part of the opposite side. Under that order various depositions were taken on the part of the United States.

On the third of August, notice of a motion to set the cause for a hearing was given by the claimant, and on the ninth of August the motion was heard. It was thereupon ordered by the Court, the United States Attorney consenting thereto, as appears by the order and the minutes of the Court, that the testimony on both sides be closed on the twenty-first of August, and the cause set for a hearing on the twenty-fourth of August.

Depositions were accordingly taken by the United States on the eighteenth and nineteenth of August.

On the twenty-fourth of August the District Attorney again moved for further time to take testimony, which was opposed by the counsel for claimant.

The Court, after hearing argument, ordered that further time should be allowed, viz., until the twenty-eighth, and that the cause be set for a hearing on that day.

The District Attorney now moves (August twenty-eighth) for further time to take testimony.

He does not state to the Court the names of any witnesses he proposes to examine, their number, nor the facts intended to be established by them, that the Court may judge of their materiality. He declines to indicate any time within which the proofs will be closed, but insists on the right to examine witnesses, so long as it shall appear to the Court that he is proceeding therein without unnecessary delay.

On the part of the claimant it is urged that any further postponement of this cause will in all probability prevent its being heard by the Supreme Court at its ensuing term.

It would be deeply regretted by the Court if this litigation, so long protracted, and involving such vast interests, should not at the next term of the Supreme Court be determined.

The question, however, for my consideration is, Have the United States had such reasonable time for taking proofs as ought to be allowed them?

It is to be observed that in the opinion of the Supreme Court, this Court is directed to "declare the external boundaries of the grant from the evidence on file, *and* such other evidence as may be produced," etc.

It is clear that this Court was bound to afford a reasonable opportunity to take the further evidence on which its declaration of the boundaries was to be founded.

From the thirtieth of June, the date of the order directing the evidence to be taken, the cause has been prosecuted by the United States with diligence.

On the eighteenth and nineteenth of August depositions were taken, and on yesterday and the day before witnesses were examined both on the part of the United States and the claimant.

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Certainly no laches or unnecessary delay can be imputed to the District Attorney. He now states that he has other witnesses, whose testimony he will proceed to take at once if the opportunity be afforded.

With the strongest desire to bring this cause to a termination, I do not feel at liberty under the directions given by the Supreme Court to refuse the application.

If two years and a half was not an unreasonable time for the taking the original testimony in this Court, less than two months can hardly be deemed sufficient when the Supreme Court have seen fit to send back the cause, in effect, for further proofs.

The Court is assured by the District Attorney, in the most emphatic manner, that he has no wish to delay the cause, but that he only desires time to submit proofs important to the interests of the United States, and which are in readiness to be taken. I do not feel at liberty to deny him the opportunity of doing so.

An order must be entered allowing the District Attorney ten days further time to produce testimony in the case.

THE UNITED STATES, APPELLANTS, *vs.* CHARLES FOS-
SAT, CLAIMING THE RANCHO LOS CAPITANCILLOS.

THE southern, western and eastern boundaries of the tract granted to Justo Larios declared, leaving the northern boundary to be determined by quantity. The former opinion, (reported at page 211) with respect to the southern boundary, maintained.

This cause was remanded by the Supreme Court, with directions to enter a decree in conformity with its opinion, reported in 20 Howard, 413.

P. DELLA TORRE, United States Attorney, and A. C. PEACHY, for Appellants.

A. P. CRITTENDEN, for Appellee.

When this case was first submitted to this Court on appeal from the Board of Land Commissioners, it was considered that the four boundaries of the tract were indicated with reasonable certainty by the grant and accompanying *diseño*. It did not escape the observation of the Court that only three of those boundaries were designated in the grant, viz., the southern, the western and the eastern; but it was thought that the description of the tract in the decree of concession as the "Cañada de los Capitancillos," and the delineation on the *diseño* of the two ranges of hills within which it was contained, sufficiently indicated the location of the northern boundary, the mention of which was omitted in the grant.

The Court was confirmed in this view by the representation of the petition, on the *diseño*, that the tract delineated upon it was of the extent of one league, a little more or less, indicating, as it seemed, that he solicited not a specified quantity, but a particular tract, the estimated area of which he declared to the Governor. When, therefore, the Governor granted to him the tract solicited, and described it as "of the extent of one league, a little more or less, as explained by the map," it seemed to the Court necessary, to carry into effect the intention of the grantor, to confirm to the claimant the tract delineated on the map, even though, as anticipated by the Governor, its extent might be "a little" more than one league; provided such excess did not exceed a fraction of the usual unit of measurement in colonization grants, viz., one league; or in other words, provided that the quantity over and above one league was such as might reasonably be deemed to have been asked for by the petitioner and granted by the Governor, under the description "a square league, a little more or less."

The clause in the third condition, by which the surplus was reserved to the nation, usually called the *sobrante* clause, was disregarded by the Court, that clause being a formula generally, and almost invariably inserted in all grants, without reference to their nature, and being not unfrequently found in grants where all the boundaries are distinctly defined, and even in grants where no boundaries are mentioned, but which are for tracts of a specified length and breadth, where obviously no *sobrante* can remain.

On the hearing, the location or existence of a northern boundary

was not brought in question, but the discussion chiefly if not exclusively turned upon the location of the southern boundary—the right of the Court to locate which by its decree was denied by the attorney for the United States. In that view, however, the Court did not coincide; but by its decree it defined and located the southern boundary, and thereby decided the most important if not the only point discussed on the hearing.

The cause having been appealed to the Supreme Court, the views of this Court were in some particulars found to be erroneous.

By the judgment of that Court it is decided, not only that in the grant itself there is no call for a northern boundary, but that “there is no reference to the *diseño* for any natural object or other descriptive call to ascertain it; that the grant itself furnishes no other criterion for ascertaining it than the limitation of quantity expressed in the third condition, which thus becomes a controlling condition in the grant.” The mention of quantity as “a league, a little more or less,” the Court regards (after rejecting the words “a little more or less,” as having no meaning in a system of location and survey like that of the United States) as so explicit as to render improper any reference to the petition and the *diseño*, or any inquiry as to “whether the name *Capitancillos* had any significance as connected with the limits of the grant.”

As to the propriety of the location of the southern boundary by this Court, the Supreme Court expresses no opinion, but the grant is confirmed for one league of land, to be taken within the southern, eastern and western boundaries mentioned therein, and the cause is remitted that this Court may declare those boundaries from the evidence on file and such other evidence as may be produced before it.

As this Court had already declared the southern and only disputed boundary of the tract, the remanding of the cause, with the directions above stated, appeared to this Court to be an instruction to review and reconsider its opinion on that point, and also to allow further evidence to be taken in relation to it. The cause having been originally heard with the consent of both parties, and without any suggestion that further evidence was desired or attainable, the application on the part of the United States for leave to take further

testimony was resisted on the part of the claimant. It seemed, however, to the Court, that the directions of the Supreme Court clearly contemplated that such testimony should be taken, if offered, and that the obedience due from this Court to the mandate of its superior required it to permit either side to offer such further testimony as might be desired. Additional testimony has therefore been taken, and it now remains for the Court again to declare the boundaries as originally declared in its former decree, or differently, if on reconsideration that decree should appear to be erroneous, or if the additional testimony is such as to induce it to change its opinion.

In the opinion heretofore delivered, it was observed—"The evidence shows that the tract called Capitancillos is a valley lying along an arroyo or brook. On the southerly side extends a range of hills, running from east to west. At their eastern extremity, where they are intersected by the Alamitos, these hills attain considerable elevation, but they decline in height towards the west, where they reach and are turned by the Arroyo Seco. Behind this ridge or cuchilla the main sierra or mountain chain raises itself to a great height, and is separated from the ridge of Lomas Bajas, already spoken of, by the two streams mentioned. These streams rise at an inconsiderable distance from each other, and flowing in opposite directions, between the Sierra and the Lomas Bajas, they turn the eastern and western extremities of the latter and debouch into the plain. Upon the slopes of the ridge of low hills, as well towards the valley on the north as towards the streams behind it on the south, the best or most permanent grazing is to be found, and in this ridge are situated the valuable quicksilver mines, the existence of which gives to this inquiry its chief importance."

To this description it may be added, that the range of low hills are not throughout their whole length entirely detached from the sierra, but are connected with it at one point by a spur or ridge running nearly at right angles to the general direction of the sierra and the lomas. This ridge is at its lowest point 1100 feet above the level of the valley. The height of the Almaden Peak at the eastern extremity of the lomas is about 1500 feet above the level of the valley, but the lomas as they extend towards the west dimin-

ish in height, and are separated by various depressions, which permit easy access from the valley on the north to the Arroyo Seco at the base of the sierra. The average width of the ridge is one mile and four-tenths, and though at the Almaden Peak the descent to the valley is abrupt, yet further to the west the diminished height of the hills, and the frequent depressions in the ridge, permit the valley to be reached at many points by easy and gentle declivities.

It is proper to add that after the proofs were submitted, the Judge, at the suggestion of the District Attorney, and accompanied by that officer and the representative of the claimant, visited the premises in order by personal inspection to become acquainted with its topography, and to be able more accurately to understand and to appreciate the testimony.

The question, then, to be determined is—What is the southern boundary designated in the grant?

The grant itself describes the land as bounded by the "Sierra;" but the question recurs—What is the natural object so designated? Is it the main chain to the south of the Lomas Bajas, or is it the Lomas Bajas themselves? The natural meaning of the term "Sierra" would seem to point to a great mountain chain, rather than to a range of hills parallel to it and separated from it, except at one point where the two ranges are connected by a narrow ridge or divide.

On the *diseño* presented by Larios, the Sierra is described as the "Sierra del Encino." The very remarkable oak tree from which this name was evidently derived is situated on the main chain of mountains, and is a conspicuous object from all parts of the valley. That the "Sierra" mentioned in the grant is that on which this tree is situated, cannot be disputed; but still the question arises—Was the term "Sierra" or "Sierra del Encino" used by the grantor to designate the lofty chain of mountains on which the oak tree is situated, as distinguished from the Lomas Bajas or lower ridge to the north of it? Or did he intend to include within it both ranges, and to apply the term as well to the Lomas Bajas as to the larger mountains behind them? In a certain sense the Lomas Bajas are evidently a part of the Sierra with which they are connected, as has been explained; but the question is not whether they form a part

of or belong to the Sierra geologically or topographically, but whether they were so known and recognized and so treated by the Governor when he described the tract as bounded by the Sierra.

On the part of the claimant, numerous witnesses testify that the part of the Sierra Azul on which the oak tree is situated is called Sierra del Encino, but that the low range of hills on the south of it and separated from it by the creeks was never known as the Sierra. That they were, until the discovery of the mine, called Lomas Bajas, and subsequently "Las Lomas de Mina de Luis Chaboya," or "Cuchilla de la Mina de Chaboya." They describe the range known as the "Sierra" as rising from the streams, and the latter as running between the Sierra and the ridge known as the Cuchilla de la Mina.

No less than nine witnesses, many of whom have lived in the neighborhood from twenty to forty years, testify to these facts, and to their testimony may be added that afforded by the *diseño* of Berreyesa, who at the time he presented it had been established in the cañada about nine years. On this map the two ranges of hills are distinctly delineated separated by a broad valley—far broader than the ravine actually existing. The lower range is inscribed "Lomas Bajas," while the upper is marked "Sierra Azul;" thus indicating that in 1842 and at the time when the petitions of both Larios and Berreyesa were before the Governor, and before the question had any importance, a marked discrimination was made even in the rude *diseño* presented by the applicant between the ridge of Lomas Bajas, and the Sierra behind it.

Since the case has been remanded, the testimony of three witnesses on this point has been taken by the United States.

Antonio Suñol testifies that he never heard of the Sierra del Encino, nor of any range of hills called the "Cuchilla de la Mina de Luis Chaboya." That the mouth of the mine is in the "Sierra Azul." On his cross-examination he states that the ridge has been called "Lomas" or "Lomas Muertas de la Sierra Azul," and that after the mine was discovered, "we *always* said the mine of Chaboya which is in the Sierra Azul."

José Maria Amador testifies that he does not know the Sierra del Encino, nor "La Cuchilla de la Mina de Luis Chaboya." That

the mine is situated on the "Lomas Bajas de la Sierra Azul." "It is in the Sierra Azul itself. The Sierra descends regularly; there is no breach nor separation in it. The mine is in a low loma. It is all known as the Sierra Azul, from the foot to the top of it."

José Romero testifies that he does not know the Sierra del Encino, nor the Cuchilla de la Mina de Luis Chaboya. That the name of the mountain on which the mine is situated is the "Sierra Azul."

On his cross-examination, in reply to an inquiry as to the name of the creek "which passes *between the Guadalupe mine and the Sierra*," he states its name to be the "El Arroyito del Corral del defunto Rafael." That he knows the loma where the Guadalupe mine is situated, and the Sierra in which it is. That "loma and Sierra mean the same thing with us."

It is unnecessary to comment on the testimony of these witnesses, for the preponderance of evidence is clearly against the accuracy of their statements, or their recollection.

If then we were to fix the southern boundary of this tract by the calls of the grant alone, the evidence would leave no room for doubt that the grantor meant by the term "Sierra" in the grant the lofty chain of mountains on which the oak tree is situated, and which being for the most part covered with chemisal, presents an azure huc at a distance; rather than the lower and parallel ridge known as the Lomas Bajas or Cuchilla de la Mina, and which is for the most part covered with wild oats and suitable for grazing.

But the great difficulty in the case is presented by the *disño* which accompanies the expediente of Justo Larios. On this *disño* a single range of hills, inscribed "Sierra del Encino," is rudely delineated; from this range the two creeks are represented as debouching into the plain. If this Sierra be the main Sierra, the Lomas Bajas are entirely omitted on the sketch. I have been much impressed with the very able and elaborate argument on this point submitted by the counsel who appeared for the United States, as also by the testimony of many surveyors that, guided by this map alone, and crossing the valley in a southerly direction, they would stop or fix the southern limit of the tract at the foot of the first hills which rise from the valley—that is, at the foot of the "Lomas Bajas."

It is urged that the southern boundary as shown by this *diseño* is a line drawn at the foot of the range inscribed "Sierra del Encino," and from one creek to the other, and not along the course of either. That if the range delineated was intended to represent the main Sierra, the arroyos, and especially the Seco, would have been represented as running below or to the north of it, and not debouching from it; and that the Lomas Bajas would not have been omitted.

It may perhaps be admitted, that if we were to be guided by the *diseño* alone, it would not be easy to avoid the conclusion so earnestly and ingeniously pressed upon the Court in the brief submitted by the counsel for the United States. The indications, however, afforded by the *diseño*, are not free from all ambiguity. On that sketch the two streams are represented as debouching from the hills at points situated on a line nearly horizontal. The map of Lewis, exhibited on the part of the United States, shows that the Arroyo de los Alamitos, called on the Larios *diseño* Arroyo de los Capitancillos, issues from the foot hills or Lomas Bajas at a point considerably to the north of that where the Arroyo Seco turns the western extremity of those hills and debouches into the plain. If a line then be drawn from the point where the Alamitos debouches, to that where the Seco turns the lomas, it would depart considerably from a horizontal line.

Again: The space inclosed between the creeks and the Sierra is represented on the Larios *diseño* as not quite twice as long as it is broad.

But if the Sierra on the *diseño* be taken to mean the Lomas Bajas, the map of Lewis shows that the tract between the Alamitos and the Seco on the east and west, and the Capitancillos and the foot of the lomas on the north and south, is about four times as long as it is broad.

Again: The Arroyo de los Capitancillos is represented on the Larios *diseño* as running towards the south-east diagonally across the valley, and then turning towards the south and running in a southerly direction perpendicularly to the valley, and nearly parallel to the Arroyo Seco for a considerable distance, until it reaches the Sierra. But if the Sierra which it reaches was intended to be

the Lomas Bajas, it should be drawn as meeting them while running in a south-easterly or diagonal course. No part of its southerly or perpendicular course should be represented. The map of Lewis shows that the course of the stream from a point above or near the hacienda is delineated on the Larios diseño with tolerable accuracy, and that from that point it flows in a northerly direction perpendicularly to the valley for a considerable distance, and it is only after turning and leaving the lomas bajas that it takes a direction diagonally across the valley. If, then, the red line drawn on Lewis' map as the southern boundary of the tract were drawn on the Larios diseño to the corresponding point of the Capitancillos, it would strike the latter not far from the letter "A" on that diseño, and that portion of the stream flowing in a north and south direction would be excluded.

Again: By looking on Lewis' map it will be seen that the Arroyo Seco, after running in a westerly direction along the base of the main Sierra, and between it and the lomas, on reaching the end of the latter makes a sudden bend to the north and debouches into the valley at a point very near the base of the Sierra; in other words, that at this point the flat or valley land extends nearly up to the base of the main Sierra. If, then, a line be drawn from this point to the most southerly point of the Arroyo de los Alamitos, or Capitancillos on the diseño of Larios, it would nearly coincide with the base of the Sierra as contended for by the claimant; and would moreover be almost a straight line, and in this respect correspond with the indications of the diseño better than the very sinuous and irregular line which is found by following the base of the foot hills which project into the valley. For it is to be observed that neither of the lines run by Lewis as the southern boundary of the tract follow what is claimed to be the boundary indicated by the diseño, viz., the base of the lomas; but run upon the sides of and over those hills at a considerable and apparently arbitrary distance from their base.

The slightest comparison between the diseño of Larios and a map of the country shows the former to be in many other respects inaccurate and defective. The angle of the creeks at which the eastern boundary commences is not laid down, and the lomita which is also

called for in the description of that line does not appear. It is therefore no very extravagant supposition that the *lomas bajas* were also omitted, particularly when the circumstances under which the *diseño* was drawn, as detailed by Petronillo Rios, are considered.

The foregoing observations, I think, warrant me in saying that the *diseño* of Larios does not afford those clear, certain and unmistakeable indications of the location of the southern boundary contemplated for by the counsel for the United States.

But in determining this question we are not at liberty to confine our attention to the Larios *diseño* alone.

The record shows that Justo Larios and Berreyesa had occupied different portions of the *Cañada de los Capitancillos* for many years before the date of their applications to the Governor for their respective grants. Between them a dispute as to their boundaries had arisen. Before the grant to either was issued, they appeared before José Z. Fernandez and agreed upon the line which should form their common boundary.

The description of this line, as given in the report of Fernandez, was inserted in both grants, and the line was marked by that officer on the *diseño* of Berreyesa "as being the more exact." In the grant to Larios the eastern boundary is described as the rancho of citizen Berreyesa, "which has for boundary the angle," etc., and in the grant to Berreyesa his western boundary is in like manner described as "the rancho of citizen Justo Larios, which has for boundary the angle," etc. The eastern boundary of Justo Larios is thus indirectly described in his own grant, but directly in that of Berreyesa; while the western boundary of the latter is in like manner indirectly described in his own grant, but directly in that of Larios. At the time of making the grant the Governor had probably before him both *diseños*, but certainly that of Berreyesa, on which the boundary line described by him in both grants had been marked by Fernandez for his information. In determining therefore the boundaries of Justo Larios, it seems to me not only proper but necessary to recur to the grant to Berreyesa, where alone the boundary of Justo Larios is described *as such*, and to the *diseño* of Berreyesa, upon which it was marked "as being more exact."

The Governor did not grant to Justo Larios the tract delineated

on his *diseño*, viz., the land between the Arroyo Seco and that of Capitancillos, or a line to the east of the latter. He granted the land between the Arroyo Seco and a line drawn from the angle of the creeks, passing by the eastern "falda" of the "lomita in the centre of the cañada to the Sierra;" and this line was marked on the Berreyesa *diseño*, and at a considerable distance to the west of the Capitancillos or Alamitos.

In declaring this boundary, therefore, which was different from that solicited by Larios and indicated on his *diseño*, we are compelled to resort to the *diseño* of Berreyesa, which becomes *quoad hoc* the *diseño* to which the grant refers. On the Berreyesa *diseño* the two ranges of hills are rudely but unmistakeably delineated. The first or most northern are inscribed "Lomas Bajas," while the higher ridge to the south is inscribed "Sierra Azul." The valley represented as lying between them, though its width is grossly exaggerated, yet serves to indicate by that very exaggeration the discrimination in the grantor's mind between the Sierra and the Lomas Bajas.

The dotted line commencing at the angle of the creeks is produced across the lomas bajas, across the intermediate valley, and the Alamitos represented as flowing through it to the base of the main Sierra.

If this line be the eastern boundary of Justo Larios, as I think it must be considered, there can be no doubt as to the range of mountains intended by the term "Sierra" in his grant.

It is urged that Berreyesa had applied not only for the Cañada de los Capitancillos, but for all the hills which pertain to it; whereas Justo Larios petitioned for a part of the cañada alone. That therefore in the grant to Berreyesa, and on his *diseño*, the line was extended so as to include the low hills solicited, but that such an extension ought not to be made in favor of Larios, who solicited the cañada alone.

This argument assumes that the term cañada as used in these grants does not include the low hills at the foot of the Sierra, but that it is bounded and limited by them. But the language of the petition of Berreyesa referred to seems to convey the contrary idea, for it speaks of the low hills "*which belong or pertain to the said*

cañada." He does not ask for the *cañada* and also a portion of the Sierra, but for the *cañada* and the low hills pertaining to it. It is surely not reasonable to say that he considered and asked for the low hills as *not* belonging to or a part of the *cañada* he solicited.

Again: the Governor, who with respect to Berreyesa, it is admitted, intended to grant the low hills, describes the tract granted to him "as a part of the place *known* as the *Cañada de los Capitancillos*," thus showing that in his apprehension at least the place known as the *Cañada de los Capitancillos* did include the low hills solicited. In the grant to Larios it is described as the "place known by the name of *Capitancillos*"—the word *cañada* being omitted in the grant though it is inserted in the decree of concession.

Again: the Governor, confessedly intending to include within the grant to Berreyesa the *lomas* or low hills, bounds his grant by the *Sierra*. With both petitions and both *diseños* before him, and with his attention directed to the discrimination between the *Sierra* and low hills belonging to the *cañada*, he nevertheless uses the same term *Sierra* in describing the boundary of Larios. Can we infer that in the grant to Berreyesa he meant by this term one natural object, and in that to Larios another? I think not. The *Sierra* referred to in both grants must be the same, and as that intended in the Berreyesa grant is unmistakeable, we are enabled to fix with corresponding certainty the *Sierra* referred to in the grant to Justo Larios.

I have given to this case much attention. I have endeavored to decide it uninfluenced by the previous opinion of this Court. Upon the best consideration I have been able to give to the questions involved, I have not been able to discover that that opinion was erroneous.

The remaining point to be considered is as to the form of the decree.

In the opinion of the Supreme Court, (20 How. 426) it is said: "The southern, western and eastern boundaries of the land granted to Larios are well defined, and the objects exist by which those limits can be ascertained. There is no call in the grant for a northern boundary, nor is there any reference to the *diseño* for any natural object, or other descriptive call to ascertain it. The grant itself

furnishes no other criterion for determining that boundary than the limitation as expressed in the third condition. * * If the limitation of quantity had not been so explicitly declared, it might have been proper to have referred to the petition and diseño, or to have inquired if the name Capitancillos had any significance as connected with the limits of the tract, in order to give effect to the grant. But there is no necessity for additional inquiries. The grant is not affected by any ambiguity. * * The grant to Larios is for one league of land, to be taken within the southern, eastern and western boundaries designated therein, and which is to be located at the election of the grantee or his assigns, under the restrictions established for the survey and location of private land claims in California by the Executive Department of this Government."

The District Court is there directed to declare the external boundaries designated in the grant.

From the foregoing it is, I think, evident that the Supreme Court considered the southern, western and eastern boundaries were alone designated in the grant, and that as the limitation of quantity was explicit, and there was no ambiguity in the grant, the northern boundary was to be determined by quantity alone; and that it was "not authorised to depart from the grant to obtain evidence to contradict, vary, or limit its import."

When, therefore, this Court has, pursuant to the directions of the Supreme Court, declared those three external boundaries, it has declared "the southern, western and eastern boundaries of the land granted to Larios," and the remaining boundary is to be ascertained by quantity.

It is urged on the part of the United States that the league is to be taken *within* the three boundaries named, but is not of necessity bounded by them; that its location within them is to be subject to the restrictions established by the executive; and that the northern boundary of the league is to be determined by the northern boundary of the tract within which it is to be located.

The Supreme Court undoubtedly say that the league is to be located *within* the three boundaries mentioned. But a reference to the preceding part of the opinion dispels any doubt which might be suggested by this expression.

It is said, unequivocally, that the southern, western and eastern boundaries of the *land granted to Larios*—not of the tract within which the league granted to him is to be taken—are well defined, and the Supreme Court explicitly declare that the northern boundary is to be determined by the limitation of quantity alone. "*The grant itself furnishes no other evidence for determining that boundary than the limitation of quantity as expressed in the third condition.* This is a controlling condition in the grant;" and they add that no additional inquiries to ascertain that boundary (the grant being free from ambiguity) are necessary or authorized by law.

It seems to me that the import of this language is unmistakeable, and the land granted to Larios must be decreed by this Court to be but one league of land, bounded by the three external boundaries mentioned in the grant, as the same are ascertained and declared in this opinion. The fourth or northern boundary to be ascertained by quantity, and to be run at the election of the grantee or his assigns, under the restrictions established for the location and survey of private land claims in California by the Executive Department of the Government of the United States.

THE UNITED STATES, APPELLANTS, *vs.* JOSÉ Y. LIMANTOUR, CLAIMING CERTAIN ISLANDS IN AND NEAR THE BAY OF SAN FRANCISCO, AND ONE LEAGUE OF LAND IN MARIN COUNTY. SAME *vs.* SAME, CLAIMING FOUR LEAGUES OF LAND IN SAN FRANCISCO COUNTY.

THESE claims rejected on the ground that the alleged grants are fraudulent and antedated.

These claims were both confirmed by the Board, appealed by the United States, and tried together before the District Court.

P. DELLA TORRE, United States Attorney, and EDWIN M. STANTON, for Appellants.

JAMES WILSON, and WHITCOMB, PRINGLE & FELTON, for Appellees.

The claimant in these cases asks a confirmation of his titles, alleged to be derived from two grants made to him by Governor Micheltorena in 1843. The first is for four square leagues of land situated in San Francisco county. The second is for the Islands of Los Farallones, Alcatraz and Yerba Buena, and for one square league of land, a little more or less, at Point Tiburon, in the Strait of the Island of Los Angeles.

The two cases have been heard together, and the evidence taken has, by agreement, been made applicable to both. In support of the claim for the four leagues, the following documentary evidence has been produced: A grant of four leagues in the present county of San Francisco, made by Manuel Micheltorena, and dated February 27th, 1843. On the margin of this grant is an approval or confirmation, signed Bocanegra, and dated April 18th, 1843.

2d. A letter, signed by Micheltorena, and dated at Los Angeles, January 8th, 1843, addressed to José Y. Limantour, stating the Governor's want of resources, soliciting assistance, and offering to compensate him by grants of land.

3d. A certificate, signed by Micheltorena and by Jimeno, Secretary, dated December 25th, 1843, in which is recited a letter received by Micheltorena from Bocanegra, Minister of Exterior Relations and Government of Mexico, and dated Mexico, October 7th, 1843. In this communication Bocanegra acknowledges the receipt of an official note by Micheltorena, dated February 24th, 1843, enclosing the memorial of Limantour, and he announces to the Governor that the Supreme Government has "been pleased to grant to Limantour sufficient leave to acquire, besides the property which he has already acquired, and which has been recognized by the Supreme Government, further country, town, or any other kind of property."

4th. A copy of an expediente, the original of which was found by Vicente P. Gomez, in the office of the Recorder of Monterey county.

This expediente contains a petition of Limantour, dated January

10th, 1843, a marginal order of reference, signed by Micheltorena, dated January 11th, 1843, and a decree of concession, dated February 25th, 1843, two days before the date of the grant produced in evidence.

5th. An official communication from Manuel Jimeno, written, as it recites, by order of the Governor, and addressed to William A. Richardson, Captain of the Port of San Francisco, and dated January 14th, 1843. In this communication the boundaries of the land solicited by Limantour are described, and information relative to those lands is required of Richardson, who is also directed to furnish a map.

6th. A letter from M. G. Vallejo to Wm. A. Richardson, and dated November 7th, 1843.

This letter is produced by Richardson, and will hereafter be noticed.

In support of the Islands grant, the claimant has produced the following documents:

A grant signed by Micheltorena, and dated December 16th, 1843. On the margin of this grant is an approval or confirmation, signed by Bocanegra, and dated Mexico, March 1st, 1844.

2. An expediente from the archives, containing the petition of Limantour, dated December 12th, 1843, with a marginal decree by Governor Micheltorena, dated December 14th, 1843, granting the land asked for, and which is described on the *diseño*.

There has also been produced by Manuel Castañares, a witness examined in this Court, a copy of a document purporting to be on file in the archives of the Ministry of Protection, Colonization and Industry of the Mexican Republic. This document purports to be a minute or direction in obedience to which the communication to Governor Micheltorena, recited by him in the certificate already alluded to, was written. To this minute is attached the rubric of Bocanegra. Appended to it is a memorandum, or *advertencia*, also rubricated by Bocanegra, which will hereafter be adverted to.

There have also been produced two letters from Mariano Arista, President of Mexico, addressed respectively to the Governor of this State, and to the Land Commissioners, in which the claims of Limantour are commended to their favorable consideration. These letters are dated October 2d, 1852.

It is contended on the part of the United States, that all the documents on which the claimant relies are false and forged, and that they were fraudulently fabricated long after their pretended dates, and after the acquisition of California by the United States.

The charge is grave. It requires and has received the most careful consideration.

The first of the claims now presented for adjudication is for four square leagues of land in the present county of San Francisco. It embraces the greater part of the northern extremity of the peninsula on which this city is situated, and it includes about three-fourths of the city, of an assessed value of about \$15,000,000, with its wharves, streets, markets, etc.

The Islands claim comprises the Island of Yerba Buena, which lies opposite to and commands the city and port of San Francisco;

The Island of Alcatraz, a small and barren rock which commands the entrance to the Golden Gate, and which is the site of important defensive works erected by the United States;

The Island of the Farallones, which lies opposite the Golden Gate, and at some distance from the mouth of the harbor, and on which the United States have erected one of the most important light houses on the coast; and finally,

The Point of Tiburon, which commands the strait between the Island of Los Angeles and the main land, by which vessels avoiding the city of San Francisco are enabled to reach the northern waters of the Bay and its tributaries.

In addition to the claims under consideration, José Y. Limantour presented to the Board of Commissioners six other claims, of which he asked confirmation.

These claims were:

One for eleven square leagues, called Laguna de Tache.

One for eleven square leagues, called Lup Yomi.

One for eighty square leagues, near Cape Mendocino.

One for the Vineyard of San Francisco Solano.

One for six square leagues, called "Cahuenga."

One for eleven square leagues, called Cienaga de Gabilan, alleged to have been granted to one Chaves, and assigned to Limantour.

All these last claims were rejected by the Board. No appeals have been prosecuted in this Court, and they appear to have been abandoned by the claimant.

All these claims, and the two now submitted, are in form separate, but they are in many respects so closely connected, that those before this Court cannot be considered without reference to them.

The six claims referred to embrace one hundred and thirty-four square leagues of land, or nine hundred and twenty-four and thirty-four one hundredths square miles, or five hundred and ninety-four thousand seven hundred and eighty-three and thirty-eight one hundredths square acres.

They all purport to have been made within a period of about sixteen months, and are, with the exception of the grant for the Vineyard of San Francisco Solano, founded on the same consideration, viz., the great services of the grantee to the Department in money and goods.

If these immense and extraordinary concessions were in fact made by Governor Micheltorena, and if the advances in money and goods, on which they were founded had in fact been furnished by Limantour, it would naturally be expected that the records of the Government, and the correspondence of its officers, would furnish abundant allusions to the transactions.

How far that expectation is realized in this case will subsequently appear.

By the decree of March 11th, 1842, the jealous and exclusive policy which had prohibited the acquisition of lands by foreigners within the Mexican territory was in some degree relaxed, and they were authorized to acquire such property within the Central Department of the Republic. This privilege, however, did not extend to the Frontier Departments, in which they could acquire lands only by express permission of the Supreme Government.

The singular advantages presented by the bay and harbor of San Francisco for commercial purposes, had, long before the date of the grants to Limantour, attracted the attention not only of foreigners, but of the more intelligent of the native population. So early as 1837, General Vallejo had, in a memoir or exposition addressed to the Departmental authorities, brought to their attention

the great commercial advantages of the bay and its tributaries, and had particularly remarked the importance of the point of Tiburon and the islands of Alcatraz and Yerba Buena for the military defense of the harbor. The record in this case discloses that just previous to the date of these grants, a plan had been proposed to transfer the Custom House from Monterey to this port, and to establish at the latter naval arsenals and schools.

The islands solicited by Limantour, particularly those of Alcatraz and the Farallones, were almost without value to a private individual, if retained for his own use.

When, therefore, he solicited and the Governor granted them, it must have been contemplated by both that they would subsequently be repurchased by the Government, as indispensable to the fortifications of the harbor; for in that way alone could the grantee have hoped to derive any advantage from their acquisition.

The lands embraced in the four-league grant were also in great part unfit for agricultural purposes, and they could only have been desired by Limantour from their prospective value as the site of an important town.

The case, then, as stated by the claimant, is extraordinary and surprising. That a Governor of California should not only have so widely departed from the ancient and traditional policy of his country with regard to foreigners as to make the enormous concessions which have been offered for confirmation by the claimant, but that he should have granted to him the site of a future town, upon the most important bay of the coast, and added thereto a grant of all the islands and military positions which command the approach or the entrance to the harbor, strikes us at the outset as a circumstance astonishing if not incredible. Among the accusations brought against General Micheltorena after his overthrow and expulsion from the country, it is strange that so just and so popular a ground of animadversion as such grants as these to a foreigner would have afforded, should have been wholly omitted. And it is still more strange that the archives should fail to show the slightest trace of his action on the subject, either in his official correspondence with the Supreme Government, or with his own subordinates.

These considerations are at least sufficient to justify us in ap-

proaching the examination of the evidence in support of these claims with surprise if not with suspicion.

The documentary evidence in support of the four-league grant, on which the chief reliance is placed, consists of the grant itself and the expedientes.

1. As to the grant.

The handwriting of the grant is stated by Arce, Prudon and Abrego, three of the claimant's witnesses, to be that of one Maciel, a Captain in Micheltorena's command, who was sometimes employed by him to write in the office.

On the other hand, it is testified by A. Jouan and F. Jacomet, witnesses on the part of the United States, that the writing is that of E. Letanneur, a clerk in the employment of Limantour about the year 1852.

Letanneur himself is proved to have confessed the fact, when interrogated before the Grand Jury of this county; but his subsequent denial of it, when examined as a witness for the claimant, and the circumstances under which the confession was made, deprive it of any great weight as evidence in the case. But the testimony of Jouan and Jacomet is confirmed by other proofs.

In the archives at Monterey is found the record of a criminal proceeding, in which a document purporting to be written by Maciel is found. The handwriting of this document in no respect resembles that of the grants in these cases.

Francisco Sanchez testifies that he knew Maciel, and has seen him write. With a scrupulousness that adds force to his testimony, he declines to say that he remembers his handwriting well enough to say that he knows it. He states, however, that "it appears to him that Maciel did not write the document; that he was an educated man, and that no Spaniard would use the word '*estacado*' as it is written in that paper."

Benito Diaz testifies that he has seen Maciel's handwriting on several occasions, but is not particularly acquainted with it; that he cannot compare the writing of the document with that of Maciel, because he does not remember the latter sufficiently, but from its tenor and style, he does not believe it to be his; that it contains errors such as Maciel would not have made, and he particularizes

the circumflex over the word "*linea*," the use of the words *fundadero* instead of *fondeadero*, *estacado* for *estacada*, and *podro* for *podra*.

But the most significant circumstance connected with the writing of these grants is the fact that the Yerba Buena grant and the Islands grant are in the same handwriting, and this, although one is dated at Los Angeles, and the other at Monterey ten months afterwards, and that among all the archives found in the Surveyor General's office, no writing similar to this is found. If Maciel, who it is admitted was only employed occasionally in the Governor's office, wrote these two grants at different places, after so long an interval, with the mistakes which have been mentioned, and then abruptly desisted from his labors, it was surely a most singular coincidence.

The expediente produced in the four-league grant is stated by Vicente Gomez to have been found by him accidentally in the office of the Recorder of Monterey, in the year 1853. This witness testifies that, at the request of José Castro, he went to the office of the Recorder to examine the papers in reference to some property of the former; that while so engaged he discovered the expediente now produced; that after finding it he consulted José Abrego, who advised him to take a copy of it, which he did.

W. I. Johnson testifies that he held the offices of Recorder and Deputy County Clerk in Monterey from April, 1850, until June, 1853, and had charge of all the archives or records relating to lands; that pursuant to an Act of the Legislature of this State, he examined all the archives under his charge, but that he found no such paper as that discovered by Gomez; that if there had been any such he thinks he would have found it, and would certainly have remembered it. He further states that he first heard that Limantour claimed a tract of land in San Francisco from Gomez, who said to him that he believed José Abrego was concerned in it, and that to his (Gomez's) knowledge, it was a fraudulent claim; that immediately after this conversation he again carefully examined the archives relating to land titles, but found no document of the kind now produced.

Philip A. Roach testifies that in 1850 he, together with Mr.

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Ripley, who was elected Recorder, were appointed a committee to examine the papers in the Recorder's office, and to separate those which would belong to the county from those relating to the city, and that in the discharge of those duties he examined all the papers in the office ; that subsequently he examined them all a second time when searching for an expediente relating to a rancho in Monterey, but that on neither occasion did he discover the document now produced, and that he does not think such a paper could have escaped his attention.

It is admitted by Gomez, and the fact is unquestionable, that the proper and regular place of custody of such documents as that found by him, was the office of the Secretary of State, and not that of the Alcalde, the records of which were transferred to the Recorder's office.

Mr. Hartnell, who, during the existence of the military government in this country, held the situation of government translator, and who made an index of all the California land grants he could find, testifies that he only heard of the existence of the grant to Limantour, by public rumor, in the year 1853 ; and, finally, Mr. Selim E. Woodworth states that he made a general examination of all the archives in 1850 ; that being desirous to ascertain the limits of the pueblo of Monterey, he examined every paper and book in the office of the Alcalde, and that he did not see among them the expediente subsequently found by Gomez.

To corroborate Gomez, the claimant has taken the testimony of Florencio Serrano. This witness describes accurately the expediente as now produced, and states that he saw it in the archives of his office when he was Judge, in 1848 or 1849. On his cross-examination he states that he never saw the document or a copy of it from that time until it was exhibited to him in Court, December 8th, 1855.

The falsehood of this declaration is proved by the testimony of the County Recorder, Mr. Williams. This officer states that on the fifth of December Serrano called at his office and asked for the petition of Limantour ; that he handed him the expediente, which he read attentively ; that a few days afterwards he read in a newspaper the testimony given by Serrano, and at once remembered

that he had been in the Recorder's office, but he could not recollect when. On retiring for the night, he remembered that he had made a charge in his books for searching for the paper, and that the next morning, on referring to his books, he found the entry under date of December 5th, 1855, "Search for Limantour grant, fifty cents."

The exposure of this gross falsehood on the part of Serrano, not only destroys his credibility as to the more material fact to which he testifies, but the attempted deception confirms our suspicions as to the truth of the statement of Gomez.

If to the testimony of Johnson, Roach, Woodworth and Hartnell, be added the circumstance that Gomez, immediately on discovering the expediente, suspended his search for Castro's papers, which he never afterwards resumed, and that his statement with regard to his consultation with Abrego is unconfirmed if not absolutely contradicted by the latter, we are justified in asserting that this claim can derive little support from documents discovered and produced under circumstances so suspicious.

How far any statement of Gomez is entitled to credit will hereafter more fully appear.

The expediente thus presented for consideration consists, as has been stated, of a petition in the writing of Limantour, and a marginal order and a decree of concession in the writing of Micheltorena.

The marginal order directs, in the usual form, a reference "to the proper judge," and the decree of concession recites that "the proper judge having taken all the steps and investigations," etc., there is granted to José Y. Limantour the tract mentioned in his petition.

The judges in the jurisdiction of Yerba Buena, in the years 1842 and 1843, were Francisco Sanchez, First Alcalde, and José de Jesus Noé, Second Alcalde.

If, then, as the marginal order directs, and the decree of concession asserts, the petition of Limantour was referred to the respective judges, the reference should have been to one of these officers. But no trace of any report by them exists, either in the expediente, where such informes are usually found, or in any document whatever in the archives. Noé himself testifies that neither during the year 1843, nor at any other time, was he called upon

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for an informe in relation to land near the pueblo of Yerba Buena solicited by Limantour, and that he never had heard of any claim by Limantour to such lands until 1852. Francisco Sanchez makes the same statement, and adds that in 1844 Limantour petitioned for lands near the Mission Dolores, at a place called Los Canutales, and was refused because he was a foreigner; that he heard of Limantour's claiming lands in California in 1852 for the first time. The testimony of these witnesses is confirmed by the records of their official action.

On the thirteenth of May, 1846, Enrique Fitch and Francisco Guerrero petitioned for two and one-half square leagues of land in the point of the Presidio of San Francisco. This land is within the limits of the tract alleged to have been granted to Limantour. The petition was referred to the Prefect, Manuel Castro, who appears to have referred it to the First Justice of the Peace, José Jesus Noé. The expediente contains the report of the latter, stating that the land is vacant: and also the informe of Castro, advising the Governor that the land may be granted.

It is also shown by the expediente in the case of Benito Diaz, that on the twenty-fourth of May, 1845, he petitioned for two square leagues of land called Punta de Lobos, a great part of which is included within the limits of the Limantour grant. The usual reference having been made to the respective judge and the military commandant, both of those officers report that the land is vacant, and can be granted. The judge who signs the informe is José de la Cruz Sanchez, and the military commandant is Francisco Sanchez.

It thus appears that not only no reference was made of Limantour's petition to the respective judge, as is recited in the decree of concession, but that the statement of the two Alcaldes that they have never heard of any grant to him is corroborated by their official reports as found in the archives.

But the claimant contends that the informes on which the Governor acted were obtained from Wm. A. Richardson and Francisco de Haro. To establish this, Richardson has been examined. This witness states that about the latter part of January, 1843, he received by the hands of the former magistrate of San Francisco, Don Francisco de Haro, a communication from Manuel Jimeno,

which he produces; that at the same time De Haro showed him a communication on the same subject addressed to himself; that he answered the communication sent to himself, and prepared a map which he transmitted with his reply to the Governor.

At the time of this transaction Richardson was Captain of the Port of San Francisco, but resided on the northern side of the bay, at Saucelito. The duties of that office are detailed by Escriche (ap. verb. 415). They relate chiefly to the visiting and inspection of vessels and the prevention of smuggling. They appear to have had no reference to the granting of lands.

A reference therefore to Richardson for the information required, was a departure from the invariable practice of the Governor in similar cases, and the fact of such a reference in this case, is on other grounds extremely improbable. The archives show that on the very day on which this letter of Jimeno purports to have been written, Manuel Castañares, the Administrator of the Custom House, addressed a letter to Micheltorena complaining of Richardson's official misconduct, and charging him with smuggling, and that in about a month thereafter Richardson was removed from office. There is also produced by Richardson a letter signed by M. G. Vallejo, and dated November 7th, 1843.

The proof of the authenticity of these letters rests on the testimony of Richardson and Arce. General Vallejo, though a resident of this country, has not been called to establish the genuineness of the letter attributed to him, or to explain the circumstances under which it was written. Admitting it, however, to be genuine, its language seems to indicate that the writer was at its date ignorant that Limantour had obtained any grants from the Government. After alluding to the fact that "our friend, the notorious Limantour," had furnished large sums to Gen. Micheltorena, it adds, "if he does not intrigue, at least he *endeavors to obtain* some grants in that (Punta de Reyes) and other places, taking advantage," etc. Such language would surely not have been used had the writer been aware that a grant of four leagues in the port of San Francisco had already been made to Limantour, and approved by the Supreme Government.

But Manuel Jimeno himself has been examined as a witness. It

is a significant circumstance that neither the letter produced by Richardson, nor the certificate of Micheltorena reciting the communication of Bocanegra, and which purports to be attested by Jimeno, were exhibited to the latter.

In reply to a question whether, on Governor Micheltorena's arrival in Monterey, (in August, 1843) he understood from him (Gov. Micheltorena) that he had made a grant of lands to Limantour, he replies: "I did not so understand from Gov. Micheltorena." He further states that he never heard Gov. Micheltorena say that he had granted lands to Limantour adjoining the Pueblo of San Francisco, and that he does not know that such grant was made. He adds, however, that he recollects that as Secretary he asked for information respecting lands petitioned for by Limantour. Of what authority he asked this information he does not recollect. Two of the grants presented by Limantour to the Board, and which were rejected, and have been abandoned by him, bear the signature of Jimeno as Secretary. They are dated December 4th, 1843, and December 20th, 1844; one is for eleven square leagues, the other for eighty square leagues. The certificate of Micheltorena, attested by Jimeno, before referred to, is dated December 25th, 1843. The reasons for considering all these documents antedated and fabricated will hereafter appear. It is sufficient for the present to observe, that if they are genuine and were signed by Jimeno, it is impossible that he should not have known and remembered that such extensive and extraordinary grants had been made.

The testimony of Jimeno exposes the falsehood of the statement made by Gonzales, another of the claimant's witnesses. Gonzales swears that soon after Micheltorena's arrival, he offered to grant to him land at Yerba Buena; that he had received a report on the subject from Prefect Guerrero, from whom, as from other Prefects, he had required a statement of the condition of their lands; that the witness did not see the *informe*, but saw on several petitions the order for an *informe*, directed to Guerrero; that a short time before Micheltorena went out of office, he (witness) presented a petition for the land, which was, by a marginal order, referred to Jimeno; that Jimeno reported in writing, and that the next day he received back his petition from the hand of Jimeno, with a decree

of the Governor, stating in substance that the lands could not be granted, as they had already been granted to Limantour. It is unnecessary now to dwell on the various falsehoods contained in the deposition of this witness. His statement that he was Administrator of the Custom House from 1832 to 1834; that he received an order to remove the Custom House to Yerba Buena; that Guerrero was Prefect; that Micheltorena removed to Monterey about a month after taking his oath of office, are all disproved by the records now existing of the transactions of the former Government. Not only was Guerrero never Prefect, but the records have been searched in vain for any petition on which a marginal order of reference to him is found. Had several such existed as asserted by the witness, it is nearly impossible that all could have been lost.

The negative evidence against this grant, afforded by the fact that Jimeno did not know of its existence, is most important. The records of proceedings under Micheltorena's administration, with reference to grants of land, show his uniform and almost invariable habit of referring every application to Jimeno for information and advice. The intelligence, the experience, and the evidently cautious and circumspect disposition of that officer, appear to have given to his recommendations great weight with the Governor, and in every instance his advice seems to have been relied on and implicitly followed by that officer. To suppose, then, that Micheltorena, without consulting Jimeno, would have made to a foreigner a grant which Vicente Gomez says was much "spoken of, because it was a grant of a famous port;" that after doing so he never even mentioned the circumstance to Jimeno, and that up to 1853 Jimeno remained in ignorance of the fact, is to suppose what is almost impossible. That Jimeno could not have forgotten it is, I think, obvious. The dilemma is therefore presented: either he swore truly that he did not know it—in which case Gonzales' testimony must be rejected as false, and Jimeno's signature to Micheltorena's certificate be regarded as forged—or else, if Gonzales' testimony be true, and Jimeno's signature genuine, the latter has sworn falsely, when he stated that he did not know that the grant was made. Which of these alternatives is to be adopted by this Court will subsequently appear.

But an indirect confirmation of Jimeno's testimony is, however, afforded from another source. Victor Prudon, a witness for the claimant, states that he delivered and read to Limantour the letter from Governor Micheltorena, dated January 8th, 1843, in which he solicits assistance from Limantour. The witness then details a conversation with Limantour, in which the latter expressed his intention to ask for lands near Yerba Buena, to which the witness objected that Governor Micheltorena had no power to grant lands to a foreigner. He adds that he and Limantour made a bet on the subject, and when the case was submitted to Micheltorena, the latter convinced him by showing him Santa Anna's decree of 1842, allowing foreigners to hold lands in the Mexican Republic; that the petition was then drawn, and he saw it afterwards with Micheltorena's decree of concession, in the Secretary's office.

If this statement be true, the official action of both Micheltorena and Jimeno, in the case of Sparks, is not easily accounted for. By the expediente in that case, produced from the archives, it appears that on the sixth of June, 1843, Sparks, a naturalized Mexican citizen, petitioned for land which he had for some time been allowed to occupy provisionally. The Prefect, to whom his petition was referred, reports that, "as the law, in speaking of strangers, prohibits them from acquiring real estate in the Republic, if they have not been naturalized therein and married with a Mexican, your Excellency will order that which may be proper." On the fifth of July, 1843, Micheltorena orders all the proceedings to be returned to the interested party to await the very shortly expected arrival of the new Constitution of the Republic; "and when he may know that it has arrived, he will make his application anew."

On the first of December, 1843, Sparks renewed his application; on which Jimeno reports, December 5th, 1843, as follows: "The party interested has not acquired the property of the land he petitions for, on account of not being married to a Mexican, as required by the Constitution of 1836, and although, by a subsequent decree, foreigners were allowed to acquire real estate in the Republic, exceptions are made in the Frontier Departments, which have been subjected to regulations which have not been received. I believe it would be an act of justice to grant the land to the petitioner, because he is an honorable man," etc.

The land was, accordingly, on the fifth of December, ordered to be granted, on the condition that the grantee should have no power to sell it. The evidence afforded by this expediente is important, not only as contradicting or at least discrediting the statement of Prudon, but as indicating the caution and circumspection of both Micheltorena and Jimeno with reference to grants to foreigners. If the grants presented by Limantour be genuine, Micheltorena must have signed and Jimeno attested on the fourth of December, 1843, (the day preceding the date of the latter's report and the order of the Governor) a grant to Limantour for eleven square leagues—Laguna de Tache—and on the sixteenth of December, Micheltorena must have granted to him the islands of the Bay of San Francisco, the paramount military importance of which to the Government has already been noticed; and this, though Limantour was neither naturalized nor married to a Mexican.

Had Micheltorena, ten months before, granted to a foreigner the port of Yerba Buena, and had he, on the preceding day, granted to the same foreigner eleven leagues of land under the authority of the law of 1842, the doubts of Jimeno, his ignorance of the regulations prescribed by law, and the condition imposed by Micheltorena in the grant to Sparks, are inexplicable.

That Jimeno considered naturalization as an indispensable requisite to a petitioner soliciting a grant, is further evident from the expediente in the case of Sainsevain.

The application of this person was, by Micheltorena, referred as usual to Jimeno, on the twentieth of November, 1843. That officer on the same day reports: "Don Pedro Sainsevain is not naturalized, an indispensable requisite in order to secure property in this territory." Sainsevain's application was accordingly denied, until, having become naturalized, he obtained a title from Pio Pico in 1846.

But there are other parts of Prudon's deposition which are worthy of notice. He states, as we have seen, that he saw the petition of Limantour, with the decree of concession, "in the Secretary's office."

On his cross-examination, he testifies that Governor Micheltorena "had no civil Secretary until he arrived in Monterey." This statement, made evidently with the object of accounting for the absence

of the attestation of the Secretary to either of the grants now presented, is shown to be untrue.

A list of grants purporting to have been made by Micheltorena at Los Angeles in the year 1843, has been prepared from the records on file in the Surveyor General's office. Two of these, dated January 27th, 1843, are attested by Jimeno as Secretary; the remainder, twenty-two in number and of various dates, from January 27th to May 20th, 1843, are attested by Francisco Arce.

Arce himself states that in January, 1843, Jimeno was Secretary of the Departmental Government of California, and that he himself acted as Secretary *ad interim* under Micheltorena at Los Angeles; and on the twenty-fourth of February, 1843, three days previous to the date of the first grant to Limantour, a grant is found in the archives bearing his attestation.

The same facts are also testified to by Rafael Sanchez, who was clerk in the office of the Military Secretary in January, February, March and April, of 1843. This witness states that Jimeno was appointed Secretary in January, 1843; that after acting as such a short time, he went to Monterey, and that Arce, his first clerk, acted as Secretary during his absence.

With regard to Richardson, to whom, as he says, the letter of Jimeno was addressed, it will hereafter appear that at the time when these documents are supposed by the United States to have been forged, viz. :—in June, 1852—he was in Mexico, and in frequent communication with Limantour. One statement, however, contained in his deposition may here be noticed. In reply to the seventeenth question, Richardson testifies that when he was in Mexico in 1852, Limantour inquired of him as to the condition of his "lands at Yerba Buena." That upon his (witness') advising him that he ought to send on his documents at once, as the Commissioners were in session, Limantour replied that he could present them at any time; that "they were all substantiated by the proof of signatures by the United States Consul in the city of Mexico, or the United States Minister." In a subsequent part of his deposition, Richardson states that he left San Francisco on the first day of June, 1852, and returned to that city on the twenty-ninth of July, of the same year, having spent eleven days in the city of Mexico.

The conversation with Limantour must, therefore, have occurred some weeks prior to the twenty-ninth of July.

It is true that the documents produced by Limantour do bear the certificates of the United States Consul at Mexico, attesting the genuineness of the signature of J. Miguel Arroyo, who himself certifies to the genuineness of the signatures of Bocanegra and Micheltorena. But unfortunately the certificates of the Consul are dated on the second of November, 1852, more than three months after the date of the alleged conversation, in which, according to Richardson, Limantour stated that they had already been obtained.

It is therefore evident that the statement by Richardson of that conversation is untrue; whether this falsehood was intentional, or is the result of an inaccurate recollection, we will be enabled to judge when the evidence to prove the fraud attempted in these cases has been more fully considered.

It is stated by Prudon that the fact that the lands had been granted to Limantour near Yerba Buena and the Presidio was known, as he believes, to all the principal persons in the country; and he asserts positively that it was known to Alvarado, José Castro, Manuel Castro, Jimeno, Guadalupe and Salvador Vallejo, Arce, Sanchez, and some others.

With respect to Jimeno, we have already seen that this statement is contradicted by himself. We have also seen by the expedientes in the case of Fitch and Guerrero, and in that in the case of Benito Diaz, that Manuel Castro, as Prefect, in June, 1846, reported a part of the tract embraced within the grant to Limantour as vacant, and that José de la Cruz Sanchez as Judge, and Francisco Sanchez as Military Commandant, made a similar report, on the application of Benito Diaz for a part of the same tract.

Rafael Sanchez, who was examined as a witness, states that he does not remember whether or not Micheltorena made any grants of land at Los Angeles.

Alvarado testifies that neither Micheltorena nor Limantour ever told him that any land near Yerba Buena had been granted to the latter. He says, however, that he heard that there had been granted or sold lands to Limantour, and that he had solicited lands at the North, but where he did not hear.

Francisco Arce, though examined by the claimant, says nothing on the subject.

Guadalupe and Salvador Vallejo have not been examined as witnesses.

The only witness who corroborates the statement of Prudon is José Castro, and he merely states that Limantour told him in 1845 that he had no money, having expended it all in purchasing lands near the port of San Francisco. It will hereafter be seen that in 1854, and long subsequently to the date of the alleged grant of lands near Yerba Buena, Limantour received from the Mexican Government, in payment of goods furnished to Micheltorena, more than \$56,000.

We have thus far directed our attention to various circumstances connected with the grant and expediente in the Yerba Buena case, which suggest suspicions as to their genuineness. We are now to consider the evidence upon which the United States rely as demonstrating, beyond all doubt, the forgery of the titles and the perjury of the witnesses who have testified in support of them.

The most imposing, and in many respects most important witness produced by the claimant is Manuel Castañares. The testimony of this witness was taken in this Court after the case was appealed. He came, as he states, from Mexico to this country for the purpose of giving his evidence in this cause, and by permission of the President of Mexico, obtained through the intervention of the French Minister. The official position and the intelligence of this witness, the clearness and precision of his answers, and the circumstances under which his testimony was given, are such as would naturally commend him to the respectful consideration of the Court. It is the discharge of a painful duty to declare that his evidence, in almost every important particular, has been shown to be false, by proofs which amount to demonstration.

In reply to the thirty-second question, Castañares states that the paper on which the grants in these cases were written was printed in Monterey, towards the end of the year 1842.

That by the laws of Mexico, paper was habilitated for a "bienio," or period of two years; that paper had accordingly been printed for the bienio of 1842 and 1843, but inasmuch as by a new law the

prices and uses of stamped paper were changed, it became necessary to have a new impression in conformity with that law for the remaining year of the bienio ; that the law making this change was received by him in the latter part of November, or quite early in December, 1842, and that he immediately took measures to have the new form of stamped paper printed in conformity with it ; that he sent down to Micheltorena, by express, in *December*, all the paper that was printed, that it might be rubricated by him ; that all the paper ordered for the use of 1843 was printed in the latter part of 1842, and that the impression was made at one time ; that he affixed his own rubric to it, and sent it all to the Governor at one time. There were about two reams, of five hundred sheets each. In reply to the one hundred and forty-ninth question, the witness repeats that all the acts necessary for habilitation, viz.—the printing, the applying the seal of the Custom House, and affixing his own rubric—were performed by him on the paper for use in 1843 in the year 1842, previously to his sending it to Micheltorena, at Los Angeles. He adds that the paper was returned back from Los Angeles early in the month of March.

Henry Cambuston, by whom, as stated by both Castañares and himself, the paper was printed, swears that the paper on which the grants in these cases are written was printed by him in November or December, 1842 ; that he “ knows for a certainty that it was printed either in November or December of that year ;” that all the paper for 1843 was then printed—a form was set up, and as soon as all the paper was printed, it was taken down. The witness, in reply to the eleventh question, states that he knows positively that the two sheets exhibited to him, (the grants in these cases) are two of the sheets printed by him in November or December, 1842, for habilitation and use in the year 1843.

The importance of this testimony, if true, to the claimant is evident. The grant for four leagues, near Yerba Buena, is on *habilitated* paper. It is dated Los Angeles, February 27th, 1843.

But the proofs of its entire falsity are irresistible.

So early as the year 1837, the necessities of the Mexican Government had suggested the policy of obtaining a revenue from a tax upon sealed or stamped paper. The law on this subject, which

was modified and in part repealed by the decree of April 30th, 1842, is found in the archives, and it has been printed among the exhibits filed in these cases.

By the eighteenth article of that law, all sealed paper for use in the Departments was to be transmitted from the Capital by the Director General de Rentas, who was, by the forty-first article, required to furnish, with the greatest promptitude, the necessary supplies to the Governors of the various Departments for distribution and consumption. It was, however, provided by that article that in cases of absolute necessity, and in the absence of sealed paper from Mexico, paper might be "*habilitated*" by the Administrator General and the Commissary, *with the previous approbation* of the Governor. The habilitation was to be made by placing on the paper the stamp of the office, and expressing therein the class of the seal, its value, the bienio to which it belonged, the place and date, together with the signatures of the Administrator and Commissary, or political authority in the absence of the Commissary.

No sealed paper from Mexico seems to have been furnished to the Department of the Californias. The paper was accordingly habilitated by the signatures of the Administrator of the Custom House and of the Governor.

But this habilitation required, as we have seen, the previous approbation of the Governor. Micheltorena assumed the duties of that office on the thirty-first of December, 1842. It is therefore evident that he could not have given directions for the habilitation of paper in time to permit it all to be prepared, as stated by Castañares, in November or December of that year.

When it was in fact ordered, and at what time the habilitation was effected, is conclusively shown by the archives of the former Government.

In those archives is found the official correspondence of Micheltorena and Castañares with reference to the habilitation of paper for the year 1843.

The first letter is from Micheltorena, and is dated Los Angeles, January 9th, 1843. It is as follows:

"The sealed paper provided by the last law upon the subject

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not having reached this Department, you will proceed to habilitate as much as may be necessary, and distribute the same to the proper parties for the sale thereof. MICHELT'A."

This letter is addressed to the Administrator of the Custom House at Monterey.

On the margin of this order of Micheltorena is a note signed with the rubric of Castañares, and dated *January 22d, 1843*. It is as follows: "Let the paper be sealed as required."

On the fifteenth of March, Governor Micheltorena again writes to Castañares, referring to his previous order of the ninth of January, and stating that up to that time, (viz.: March 15th, 1843) no paper had reached Los Angeles. He thereupon reiterates his order to Castañares to "*proceed immediately to its habilitation*, and to distribute it to the various officers, together with a copy of the law on the subject, for publication, advising them that the only copy of the law is that which was transmitted to the Custom House."

On the fifth of *May, 1843*, Castañares writes to the Governor as follows:

"EXCELLENT SEÑOR:—I have the honor to transmit herewith to your Excellency twenty-five sheets of the first class, forty of the second, fifty of the third, one hundred of the fourth, and one hundred and fifty of the fifth, in order that you may place your rubric thereon, and order the same to be forwarded to the Prefect of the Second District, that they may be distributed to the Courts under his jurisdiction," etc.

On the sixth of *June, 1843*, Governor Micheltorena acknowledged the receipt of the paper transmitted by Castañares on the eighth of May. His letter is as follows:

"With your official communication of the eighth ultimo, I have received twenty-five sheets of the first seal, forty of the second, fifty of the third, one hundred of the fourth, and one hundred and fifty of the fifth, the distribution, collection and account of which I have committed to the charge of the Prefecture of the Second Dis-

trict, for the reason that the office of the military paymaster has to be removed.

“ God and Liberty.

MAN’L MICHELT’A.

“ Los Angeles, June 6th, 1843.

“ To the Administrator of the Maritime Custom House of Monterey.”

In the exhibit in which these letters are contained is a large number of official communications relating to the distribution of the sealed paper among the various officers.

On the thirtieth of May, Castañares transmits a number of sheets to the Justice of the Peace of San Juan Bautista.

On the twenty-ninth of June, he transmits sealed paper to the Sub Prefect of San José, and on the twentieth of December he informs the Governor that he had forwarded sealed paper to those officers, in obedience to his order of the fifteenth of March.

The distribution of the sealed paper transmitted to Los Angeles by Castañares on the eighth of May, and the receipt which the Governor acknowledges on the sixth of June, are also shown by the official correspondence of the Governor with the Prefect, and of the latter with subordinate local authorities.

On the third of June the Governor transmits to the Prefect of the Second District all the paper he had received from Castañares. On the fifth of June the Prefect acknowledges its receipt. On the sixth of June the Prefect transmits a portion of it to the Justice of the Peace for distribution. On the seventh the Justice acknowledges its receipt. The transmission of sealed paper to, and the receipt of it by other Justices, are shown by their official letters contained in the same exhibit.

The genuineness of all this correspondence is unimpeached. The signatures and rubrics of Castañares and Micheltorena are proved. The correspondence is found in the archives among the records of the Government, where the official letters of Micheltorena’s administration are preserved.

But the facts disclosed by these letters do not rest upon the evidence afforded by them alone.

All the grants issued by Micheltorena at Los Angeles from the

beginning of his administration up to May 20th, 1843, have been exhibited in evidence. All of them are upon *unhabilitated* paper. The only documents dated previously to June 6th, 1843, which are on habilitated paper, are the petition and the grant in this case.

On the twenty-second of February, J. J. Sparks presented his petition for a title on unhabilitated paper. On the margin of this petition is an order by Micheltorena, dated March 16th, 1843, in which he directs the petition to be returned to the interested party in order that he may renew his application "as soon as it is known that new sealed paper has arrived at Santa Barbara, (which will be issued soon) to avoid the necessity of duplicating all the documents."

The petition seems to have been accordingly returned, and on the sixth of June, the very day on which Micheltorena acknowledges the receipt of sealed paper from Castañares, Sparks renews his application on habilitated paper, and the title was subsequently issued to him.

If further proof on this point could be deemed necessary, it is found in the testimony of Pablo de la Guerra, a witness of unimpeachable character, who swears that when he reached Monterey in January, 1843, no sealed paper had yet been printed.

No attempt has been made by the claimant to rebut the proofs on the part of the United States which have been referred to, or to reconcile the existence of the facts shown by them with the possible genuineness of the four-league grant.

They establish beyond all doubt, not only the falsehood of the statements of Castañares and Cambuston with respect to the habilitation of paper for 1843, but they show that at the date of the petition for the four-league grant, viz., January 10th, 1843, and at the date of the grant itself, viz., February 27th, 1843, the very paper on which they are written was not in existence.

But the statements of Castañares and Cambuston with regard to this paper are shown to be untrue in another respect. They both swear positively, as we have seen, that the paper for 1843 was all printed at the same time; that one impression was made and the form was then taken down. Castañares swears that all the paper so printed was sent by him to Micheltorena and received back in March, at one time.

The habilitated paper for 1843 has been subjected to a minute examination. It is proved beyond all doubt by the testimony of Truesdell and Tennent, that the paper on which these grants are written could not have been printed on the same form as that on which other habilitated paper for that year was printed. It would be tedious to recapitulate the numerous differences in the shape of the letters, in the length of the words, in the distances between the words, between the letters, and between the lines, on which this conclusion is founded. It is enough to say that it is clearly established, and is visible on inspection. It serves to confirm the statement of Pablo de la Guerra that the paper was printed during the year 1843, at different times, and as it was wanted.

With regard to the transmission of all the scaled paper to Los Angeles, and its return in March, 1843, at one time, Castañares' statement is also disproved. None of it was, as we have seen, transmitted by him until May 8th, and the precise number of sheets sent is mentioned in his letter of that date, in the reply of Micheltorena acknowledging its receipt, June 6th, 1843, and in the letter of the Governor to the Prefect to whom he transmitted it for distribution. But that Castañares did not send it *all* to Los Angeles is evident from the receipt of Salvador Munras for more than two hundred sheets from the Custom House at Monterey, dated May 22d, 1843, and from Castañares' letter of May 30th to the Justice of the Peace of Monterey, transmitting to that officer a portion of the paper.

The evidence is further confirmed by the fact that a majority of the documents for the year 1843, found in Monterey, are on paper habilitated by Castañares *alone*, which is inconsistent with the supposition that all the paper, after being rubricated and sealed by Castañares, was transmitted to the Governor for his rubric, and by the latter returned, after being rubricated, to Monterey. The falsehood of Castañares' statements on other points in these cases will hereafter be shown, in connection with other branches of their investigation.

It is to be observed that the evidence of fraud afforded by the proofs with regard to the habilitation of the paper can only be applied to the first grant to Limantour; his second or Islands grant

being dated in December, 1843, at a time when habilitated paper for that year was undoubtedly extant.

We proceed to consider the evidence more particularly applicable to the Islands grant. This grant bears date on the sixteenth of December, 1843. Among the claims presented by Limantour to the Board is that for Laguna de Tache, dated December 4th, 1843. This grant purports to be made in consideration of his valuable services and loans in money and effects.

The Islands grant purports to be made in payment of duties advanced by Limantour on the cargo of the "Ayacucho," which was shipwrecked; and also in consideration of services rendered by him on divers occasions to the Department. The petition found in the expediente in this case is signed by Limantour, and dated December 12th, 1843.

It is shown beyond controversy that neither at the date of this petition, nor for three months previously, had Limantour been in California, and that he did not arrive here until July, 1844. It appears in proof that, in the fall of 1841, the "Ayacucho," a vessel belonging to Limantour, was wrecked off the Punta de Reyes. The goods saved from the wreck were stored in the house of Captain Richardson, and the greater part of them were subsequently sold by Limantour. In the fall of 1842, or beginning of 1843, he undoubtedly made considerable advances to Micheltorena, who had been furnished by the Government, in addition to the ordinary resources of the Department, with a credit on the Custom House at Mazatlan for \$8,000 per month. Drafts in favor of Limantour for \$10,221 were accordingly drawn by Micheltorena on that Custom House, which were, on the twenty-fourth of May, 1843, ordered by the Supreme Government to be paid, as appears by the official letter of the Minister of War and the Navy, communicated by the Minister of the Treasury to the Treasurer General of Mexico, and by the latter Department transmitted to the Treasurer of the Department of the Californias, among the records of whose office it is found.

It may here be remarked, that so far as it appears from the archives, the payment of this draft was a complete settlement of all accounts between Micheltorena and Limantour for the advances which had been furnished by the latter.

It is probable that on the receipt of these drafts, Limantour immediately proceeded to Mexico to obtain the order for its payment, which we have seen was issued on the twenty-fourth of May, 1843.

It is at all events clear, if the testimony adduced by himself is to be relied on, that in the months of April, June and December of 1843, he was in Mexico.

The ratification or approval in the margin of the grant for two leagues at Yerba Buena, signed by Bocanegra, is dated April 18th, 1843. This instrument states that, in consideration of the services rendered by José Y. Limantour, the Supreme Government approves the grant made, and it confirms the property granted, of which this document (that is, the grant) makes mention, which *is returned to the party interested*.

In the "*advertencia*" or note appended to the "*acuerdo*" or ratification produced by Castañares, it is stated that "the Supreme Government has heretofore ratified and approved the grant made to the foreigner Limantour, setting down upon the original titles themselves said ratification and approbation, and *returning them to to the party interested*, in the months of April, June and December of 1843, and June of 1844."

It cannot, I think, be doubted that in these documents it was intended to be stated that the titles, with the ratifications appended, were delivered to the interested party *in person* at the time mentioned. No proofs have been offered to show that the titles were *sent* to Mexico by Limantour, while he remained in California. If such had been the case, his messenger would no doubt have been produced; or, at least, the fact that the documents were *sent* to Mexico would have been somewhere suggested in the evidence. But the testimony of Castañares and Keenan, the claimant's own witnesses, places this matter beyond doubt.

Castañares states that from the middle of September, 1842, when he entered upon his office as Administrator of the Custom House at Monterey, he remained in that city until the beginning of December, 1843, with the exception of a trip to Los Angeles, in the early part of November, 1842. He further states that he sailed in the bark "*Clarita*" for the port of San Pedro, in Upper California, and that he there embarked on the *Trinidad* for San Blas.

The records of the Custom House show that the "Clarita" sailed from Monterey with Don Manuel Castañares and family on board as passengers, on the thirteenth of December, 1843. In reply to the one hundred and thirty-ninth question, he says that at the time he left Monterey in the "Clarita," Limantour was not in Monterey, nor had he seen him there within the three or four months preceding.

James Kecnan, a witness produced by the claimant to prove that in 1843 Limantour spoke of his having "lands and property in California," states that the conversation to which he refers occurred on the road between the city of Mexico and San Juan de los Lagos, in the *latter days of November, 1843*.

To this testimony may be added that of Jacob P. Leese, who states that Limantour sailed from this country for Mexico early in 1843, in a schooner which he had purchased, and which was laden with aguardiente, and that he *did not return until 1844*.

But the precise date of Limantour's return in California is shown by his own memorial to the Administrator of the Custom House, on the subject of the seizure of the cargo of the "Joven Fanita" for want of a register. In that memorial he states that on the twentieth of April, 1844, he sailed from Mazatlan in the "Joven Fanita" for San Pedro and Santa Barbara, in Upper California; that on the sixteenth of May he discovered that his register had been eaten by rats; that on arriving at San Diego he presented to the Captain of the Port the fragments of the register, and other documents. He therefore asks the Administrator of the Custom House to consider the embarrassment in which he is, and to do what may be proper in the premises. The various documents by which this petition was accompanied—the order of the Administrator of the Custom House—the certificate of the packages contained in the cargo—the very fragments of the document alluded to by Limantour, and finally, the order of Micheltorena, by which he took possession of the goods, under an engagement to account to the Custom House for their estimated value, in case they should prove to have been liable to confiscation, are all found in the archives, having every mark of genuineness.

In the "carpeta" or bundle of documents presented by Liman-

tour, with his memorial to the Custom House, are the "guias" or certificates from one Custom House to another, stating that the proper duties have been paid on the cargo therein referred to.

By these documents it is shown that on the twenty-fourth of January, 1844, Limantour was at Colima, bound for San Pedro, with goods. On the eighth of March, 1844, he was at Guadalajara with goods, shipped on the "Joven Fanita" for the ports of San Pedro, Santa Barbara and Monterey. This fact is shown by an invoice dated at Guadalajara on the eighth of March, and signed by himself.

On the twenty-fourth of March, 1844, he was at Tepic with goods, bound for Monterey.

On the twenty-sixth of March, 1844, he was at San Blas.

On the seventeenth of April he was at Mazatlan, bound for San Pedro, in the "Fanita."

On the sixteenth of May, 1844, he was in latitude $22^{\circ} 27' N.$, and longitude $119^{\circ} 44' W.$, on the "Joven Fanita," bound for San Pedro.

On the twenty-ninth of July, 1844, he was in Monterey, soliciting the release of his cargo.

These last two positions appear from Limantour's memorial to the Custom House, already referred to.

The importance of establishing the position of Limantour at these dates will hereafter appear, when we revert to the testimony of Castaños on the other branch of the case.

It is sufficient here to observe, that it is evident from the statement of Castaños himself, that neither the petition of Limantour for the Islands grant, dated at Monterey on the twelfth of December, 1843, and which is signed by himself, nor the grant for Laguna de Tache, dated December 4th, 1843, (a copy of which was presented to the Board for confirmation, but which was abandoned without proof) could have been written at the time they bear date.

We now approach the consideration of a part of the evidence applicable to both the grants under investigation, by which it is urged by the United States the forgery of those documents is conclusively established. The testimony referred to is that which relates to the seals.

It is proved by the testimony of Pablo de la Guerra, and Cas-

tañares admits the fact, that there was but one seal in the Custom House of Monterey, which was used on official documents. The impressions of this seal on documents of undoubted authenticity from the archives have been compared with those found on the grants and petitions produced by the claimant in the cases under consideration. It is shown beyond all doubt that the two classes of impressions could not have been made with the same seal. It would be tedious to detail the numerous differences pointed out by the witnesses between the genuine seal and that found on the grants in question. They are readily detected on attentive examination, and are distinctly discernable in the photographic *fac similes* which have been exhibited in the cause. Among all the impressions, amounting to upwards of a thousand, of the Custom House seals found on various documents in the archives for the years 1843 and 1844, impressions similar to those on the papers in these cases are found on but eight other documents.

An examination of these documents will, however, show that the existence of these seals upon them strengthens the proof of the fraud alleged in this case. The first is the expediente in the case of the alleged grant to Limantour of eighty square leagues at Cape Mendocino. In this case the original grant was not produced, and the claim was rejected by the Board, and has been abandoned by Limantour.

The petition which is produced is dated Monterey, December 16th, 1844. It is in the handwriting of Limantour. The paper on which it is written is habilitated by the rubrics of Micheltorena and of Pablo de la Guerra, who was then Administrator of the Custom House. Pablo de la Guerra testifies that the rubric attached to his name is not his genuine rubric, nor was it placed there by him.

We shall hereafter see that this document is not the only one produced in this case which bears the forged rubric of Pablo de la Guerra.

The next is the grant to Antonio Chaves. The claim in this case was presented by Limantour as assignee of Chaves. No proof of any kind was adduced in support of it. It was accordingly rejected by the Board.

The assignment under which Limantour claimed is dated at Monterey on the first of February, 1844, and is signed by him as well as Chaves. The latter, in his deposition, states that the consideration for the assignment, viz. : five hundred dollars, was paid by Limantour to him on that day. We have already seen that Castañares swears positively that Limantour was in the city of Mexico in the month of February, 1844, and that in fact he was, on the first of February, neither there nor at Monterey, but on the road between Colima and Guadalajara. It is therefore impossible that the assignment could have been made on the day it bears date; or that Chaves' statement with regard to the payment of the money by Limantour can be true.

The subscribing witnesses to this assignment are Manuel Castro, Francisco Pico and Francisco Arce.

The third is the petition of Castañares for "La Estrella." It is in the handwriting of Limantour. Castañares himself, though his name is attached to the petition, was, at the time of his examination, ignorant of its existence.

He states that he applied to and obtained from Micheltorena two grants—one for lands near the beach of Juana Briones, the other for a place called "Las Mariposas." In answer to the one hundred and eighty-eighth question, he states positively that he never applied for any other grants in California than the two above mentioned.

The fourth document which bears the same seal as that on the Limantour papers, is the grant to Francisco Rico and José A. Castro.

It purports to be signed by Micheltorena and M. Jimeno, Secretary. In the index of land grants made by the latter officer, no mention of this grant is to be found, although a grant made on the very day (Dec. 29th, 1843) on which this grant purports to have been made is duly indexed. No expediente was produced in this case. The Court, though entertaining and expressing much doubt as to its genuineness, confirmed the claim, not conceiving itself at liberty to substitute its suspicions for the positive testimony of the witnesses who testified to its genuineness. Those witnesses were *Francisco Arce, Vicente P. Gomez and José Y. Limantour.*

It is proper to add that at the time the discrepancy in the seals had not been discovered.

The fifth document is the grant to Ramon and Francisco de Haro.

In this case, which has not yet been submitted for decision, the deposition of Vicente Gomez has been taken. This witness confessed on the stand that the original grant produced by the claimants had been written by himself in 1850. That at that time it had neither the rubrics of Micheltorena nor of Castañares at the top, nor the signature of Jimeno at the bottom. That the signature of Micheltorena was then very lightly traced. He adds that he did this at the request of a Mr. Gliddon, but that he had no idea "so ridiculous a thing would be presented in Court."

In order to test the truth of the witness' statement, and to ascertain whether he had, in confessing a forgery, committed a perjury, he, at the request of claimants' counsel, wrote out in the presence of the Court what was dictated to him. The writing was found to be in all respects the same as that of the grant in question. As the proofs in this case are not yet closed, any further observations upon it would perhaps be inexpedient.

The sixth document on which the Limantour seal appears is the grant to Modesta de Castro. This case was rejected by the Board of Commissioners. In their opinion, the Board say:

"A paper purporting to be the original grant is filed in the case, and the genuineness of the signatures of the Governor and Secretary appearing on it are proven by the deposition of *José Y. Limantour*.

"This constitutes the *whole testimony in the case*. The grant refers to the original petition and map mentioned in the expediente in explanation of the boundaries. These documents are not produced, and from the index of the records of the former government, now in the custody of the Surveyor General, it appears that none such exist in the archives."

After alluding to the imperfect description of the land contained in the grant, and the absence of any evidence of occupation or possession of the premises, the Board add:

"But independently of these considerations, there are a number of suspicious circumstances connected with the grant itself, which we should not feel justified in passing over in silence. The grant purports to be made on stamped paper for the years 1844 and

1845. Upon comparing it with a number of grants of undoubted genuineness, made upon stamped paper for those years, it is found to differ in so many important particulars as to suggest strong doubts of its authenticity."

These differences are then enumerated, and the Board observe :

"The rubrics annexed to the certificate of habilitation by Don Pablo de la Guerra are so different from those on the genuine paper, as to leave but little doubt of their being simulated."

The opinion concludes as follows :

"If, therefore, the claim were unexceptionable in other respects, we should not feel justified in entering a decree of confirmation on such a paper as this, without very strong testimony in explanation of the suspicious circumstances connected with it. The claim is accordingly rejected."

The seventh document on which this seal appears is the petition of Manuel Castro for a *sobranse*. This petition states that "in the location which was granted to Don José Limantour, called Laguna de Tache, there results considerable surplus," etc.

This reference to the grant to Limantour of Laguna de Tache might seem to afford some proof of the genuineness of the latter. This grant is dated on the fourth of December, 1843.

The petition of Castro purports to be dated on the seventh of December, and the marginal order of Micheltorena on the twelfth of December of the same year. Unfortunately, however, for the genuineness of either document, it appears that the dates of both the marginal order and the petition have been altered from October, as they were originally written, to December. The alteration is obvious on inspection. It is plainly exhibited in the photograph of the original, which has been filed. It has been so clumsily effected that the last syllables of the word *Octubre* still remain, and the word is spelled *Decietubre* instead of *Diciembre*. The allusion, therefore, in the petition of October 7th, to a grant made on the fourth of December, must have been prophetic.

It ought to be added that the genuineness of the grant to Manuel Castro is testified to by William A. Richardson. The claim was rejected by the Board.

The last document to be noticed is the petition of Ma. Antonia

Pico de Castro. This petition, though in the name of M. A. Pico de Castro, is signed by her son, Manuel Castro, whose petition with altered dates, referring to the grant of Laguna de Tache, has just been noticed.

No original grants or expedientes were produced by Limantour in any of the claims presented by him for confirmation, with the exception of the documents in the cases now before this Court, and the expediente in the Mendocino case for eighty leagues.

As none of these documents, copies of which were presented to the Board, have been exhibited in this Court, it may be presumed that they bear the same seal as the other documents presented by Limantour, and that their production would not tend to establish the genuineness of the latter.

We have thus examined in detail each of the only documents on file in the office of the Surveyor General which have the same seal as that on the papers in the cases under consideration. It is apparent that, so far from affording proof of the genuineness of the latter, the circumstances surrounding them are so suspicious as to corroborate rather than to weaken our convictions of the fraud imputed to the claimant.

We have seen that all the grants presented by Limantour to the Board for confirmation purport, with one exception, to have been made in consideration of his services to the department and of supplies furnished by him.

The evidence relating to the consideration on which the two grants submitted to this Court are alleged to have been made, will now be adverted to.

The principal witnesses relied on by the claimant to prove that the supplies, in payment of which the grants are said to have been made, were in fact furnished to Micheltorena, are Manuel Castañares and José Abrego.

Manuel Castañares testifies that in the month of February, 1843, he received at Monterey a letter from Governor Micheltorena, informing him that he had made a contract with Limantour, from whom he had received certain amounts in money and clothing for his troops, and that in payment thereof he had given to Limantour drafts upon Mazatlan and upon the general Treasury of Mexico,

"having made to him some grants of land." Governor Micheltorena therefore requested the witness to write to Santa Anna, and to those ministers with whom he was on terms of friendship, representing the destitute condition of the Departmental Government, and recommending the payment of the drafts and the approval of the grants. He accordingly wrote to Santa Anna, Tornel and Bocanegra as requested—Santa Anna being at the time President; Tornel, Minister of War; and Bocanegra, Minister of External and Internal Relations and of Government. Replies were received from these persons by the witness in December, 1843, stating that his recommendation had been complied with, and in that of Santa Anna it was added that Mr. Limantour had been authorized to make new loans to Micheltorena.

- Castañares further states that a few days after his arrival in Mexico, on his return from California, and in the month of February, 1844, Limantour visited him at his house and handed him a letter from Micheltorena, in which he (Micheltorena) informed the witness that he had received new supplies from Limantour, and recommended anew Mr. Limantour to him (Castañares) in order that he should procure the payment of the drafts given to Mr. Limantour in consideration of those supplies—Micheltorena having made to him (Limantour) new concessions of land by virtue of the authorization he had received from the Mexican Government.

The witness further states that in the year 1844, and some three or four months after his meeting with Limantour in February, the latter showed him two titles for land in California, which he recognizes as those produced in these cases.

Such is in substance the statement of this witness with regard to the consideration on which these grants were founded.

The flagrant falsehood of his evidence with regard to the habilitation of paper for the year 1843, which has already been exposed, might well relieve us of the task of examining this portion of his evidence, resting as it does on his own unsupported assertion.

Some observations upon it, however, may not be inappropriate. Neither the letter which he testifies he received from Micheltorena at Monterey, nor that handed to him by Limantour in February, at Mexico, are produced, nor is Castañares able to state with cer-

tainty whether or not they are still among his papers in Mexico, although he thinks it probable they are. (Answer to the nineteenth interrogatory.)

We have already seen that the sole object of the visit of this witness to California was to give his evidence in these cases. If, then, he had really received letters from Micheltorena, it is incredible that he should not have searched for, and if possible, brought them with him. He could not have been ignorant that they would have afforded the most decisive evidence of the genuineness of the claims he came to establish, and would have corroborated his own statements by the most unquestionable and satisfactory proofs. The failure to produce these letters, and the inability of the witness even to state with certainty that they still exist, indicating that he has never searched for them among his papers, is a circumstance of itself sufficient to make us doubt the truth of his entire statement.

We have seen that Castañares testifies positively that the letter of Micheltorena, informing him of further concessions of land to Limantour, was handed to him by the latter in Mexico, a few days after his (Castañares') arrival from California, and that Limantour showed him his titles some three or four months afterwards, in the same city. But the documents presented by Limantour himself to the Custom House at Monterey, and found in the carpeta attached to his memorial, conclusively establish that at neither of the dates mentioned by Castañares could Limantour have been in the city of Mexico.

On the twenty-fourth of January he was, as we have seen, at Colima; on the eighth of March, at Guadalajara; on the twenty-fourth of March, at Tepic; on the twenty-sixth of March, at San Blas; on the fifteenth and seventeenth of April, at Mazatlan; on the sixteenth of May, he was at sea, and on the twenty-ninth of July, 1844, he was at Monterey. I have been unable to conjecture any answer that can be suggested to the proofs thus afforded of the falsehood of Castañares' statements.

The second witness on whom reliance is chiefly placed by the claimant to prove the consideration on which these grants were made, is José Abrego.

This witness states that all the accounts between Micheltorena and Limantour passed through his hands as Commissary of the Department; that the form in which the accounts were kept was substantially as follows:

In one column were charged against Micheltorena all the moneys which came into his hands to be used as public funds. In an opposite column were credited to him all the disbursements he made. The whole amount received by him from Limantour, at various times, was \$70,000 or \$80,000, with which Micheltorena stood charged in the accounts, and he stood credited in the account with \$56,000 or \$66,000. These credits were of drafts on Mazatlan, and perhaps other places, and there was also a charge against Limantour, which stood as a credit to Micheltorena, of a certificate for lands in Upper and Lower California, for upwards of \$6,000. In this certificate, which was to be sent to Mexico, it was stated that according to the accounts of General Micheltorena, he appears to have received from Señor Limantour upwards of \$6,000 for certain lands granted to him by the Departmental Government, according to titles which have been given him.

This certificate the witness swears was signed by himself, by Micheltorena's order, and given to Limantour about a year before Micheltorena left the country. It was required by Limantour, the witness states, in order that he might obtain the approval of the Supreme Government of Micheltorena's acts in the premises.

It is proved beyond all doubt that nearly all the foregoing statements of José Abrego are false.

Since his deposition was taken, the accounts of Micheltorena's administration, with the books of the Treasurer, Abrego, have been found in the archives. They consist of—

1. A book of entries for 1841.
2. A book of entries Cortes de Caja for 1843.
3. Corte de Caja for 1845.
4. A book of entries for 1844.
5. A book of entries for 1845.

Also, two books of entries by José Abrego for 1841 and 1842.

These books have been produced in Court by Mr. R. C. Hopkins, the keeper of the archives. He testifies that he has carefully ex-

amined them, and he states the form in which they were kept. It appears from his testimony and from inspection of the books themselves, that they were prepared in Mexico, the first and last pages being signed by the Director General of "Rentas," and the intermediate ones by the "*Contador*."

There were kept—

1. A book of entries of amounts paid out.
2. A book in which were entered the amounts received each month, and also the amounts paid out each month, showing the balance on hand at the end of every month.

The items or entries are in every case authenticated by the signature of José Abrego, and sometimes by that of the party receiving the payment.

There were also monthly and yearly balance sheets made out and examined and audited by the Governor, or in his absence by some other officer.

Mr. Hopkins proceeds to state that he has carefully examined these books of the Commissary Department for the years 1842, 1843, 1844 and 1845, and that they contain no entry whatever of any transactions between Limantour and Governor Micheltorena. That this statement is accurate, is evident from the books themselves, printed copies of which have been filed as exhibits in the cause. An inspection of the books also discloses the fact that the description given by Abrego of the mode of keeping the accounts is untrue.

It is stated by him, as we have seen, that there were two columns of items, the one containing charges against Micheltorena of moneys received by him; the other, credits to him of disbursements made by him.

The books show that the accounts were kept in the form of receipts for disbursements, which were entered in the book and numbered. All the receipts from the same party being placed in a carpeta or bundle, on the outside of which was an abstract of its contents.

All the accounts of Micheltorena's administration appear to have been handed to Abrego at one time, and by him entered in a book on the second of April, 1845. In this book the aggregate amount

of the receipts or "*partidas*" is stated, and attested by the signatures of Micheltorena and Abrego. The number of *partidas* or separate entries is one hundred and eight, each of which is attested by the signature of José Abrego, and refers to the numbered receipts or vouchers contained in the corresponding "*carpeta*," or bundle of vouchers.

These last have also been examined. They have been found to correspond in numbers and amounts with the entries or *partidas* which refer to them.

Of the authenticity of these books there can be no doubt.

They are found among the archives of the former Government. They contain intrinsic proofs of their own genuineness.

They are attested by the frequent signatures of Abrego and Micheltorena. The statement of accounts in them precisely corresponds with the statement of Micheltorena's accounts made by Abrego himself to the Departmental Assembly, on the fifteenth of April, 1845, after the expulsion of Gen. Micheltorena, and which is found among the archives. And the account as stated in these books is carried into the "*Corte de Caja*," or balance sheet, made out on the first of January, 1846, also found in the archives. It is evident from inspection that there are no entries of charges and credits in opposite columns, as stated by Abrego; that there is no charge in the books against Micheltorena of \$70,000 or \$80,000, or of any sum whatever, received by him from Limantour; that there is no credit in favor of Micheltorena of \$56,000 or \$60,000 for drafts on Mazatlan or other places, or an entry of or allusion to any such drafts; that there is no charge to Limantour and credit to Micheltorena of a certificate for lands in Upper and Lower California, for upwards of \$6,000, nor any allusion to any such credit, charge or certificate; that the books contain no charge whatever against Limantour. And finally, that no certificate such as that mentioned by Abrego in his answer to the eighth question is any where contained in his books. It further appears by the testimony of Mr. Hopkins, that no written order from Micheltorena to Abrego, directing him to make out the certificate to Limantour, can be found in the archives, nor any mention or allusion to it; that neither in the books of Abrego, nor in any book, paper or account in the ar-

chives, can be found any "item crediting Limantour," or any item crediting Micheltorena, as stated by Abrego. And finally, that there is found in the archives an official letter of Garcia Condé, Minister of War and Marine, addressed to the Departmental Treasurer, in which he acknowledges the receipt from the latter of the "balance sheet made in the Treasurer's office on the first of April, 1845, showing the amount which Gen. Don Manuel Micheltorena distributed in that Department while he was Governor and Commandante General."

The demonstration of the falsehood of Abrego's testimony is thus complete. It cannot be pretended that there were other books and accounts, which have disappeared.

That the Departmental Treasury over which Abrego presided possessed no information of the amounts received by Micheltorena, is evident from Abrego's letter of the fifteenth of April, 1845, to the Departmental Assembly.

After the expulsion of Micheltorena, an inquiry into the accounts of his administration appears to have been instituted by that body. A statement was therefore demanded of Abrego, which he accordingly transmits on the fifteenth of April, 1845. This statement or balance sheet precisely corresponds, as has been mentioned, in the items and amounts, with the archives; and in the communication to the Assembly which accompanies it, Abrego says:

"In compliance with the wishes of the Most Excellent Departmental Assembly, I inclose the balance sheet formed by this office, showing the amounts that his Excellency *Don Manuel Micheltorena distributed* during the time he held the administration of this Department, and also a copy of one of the entries of the return which is found in the books of this Treasury—not having any other *class of documents or information* that can be given relative to the administration of his Excellency before mentioned.

"God and Liberty.

JOSÉ ABREGO.

"Monterey, April 15th, 1845."

If any explanation of the evidence, apparently conclusive of the falsehood of Abrego's testimony, were possible, it would surely have

been offered by that witness himself. Since the discovery and production of his books he has not been recalled to the stand. Nor has any attempt been made to show that there were other books or accounts in this office, which in any respect corresponded to the description given by him of the mode in which they were kept, or of their contents.

If the audacity and hardihood requisite to permit Abrego to make statements susceptible of a refutation so complete and apparently so easy should appear incredible, it is to be remembered that at the time his deposition was taken his books had not been discovered. They have since been found among a mass of other documents at the barracks of the United States troops at Benicia, where they have remained since the conquest of the country—four boxes of public papers, among which these books were found, having been recently removed from Benicia and placed among the archives by the United States District Attorney, as detailed by that officer in his deposition.

The same observations are applicable to the testimony of Castañares; for it was not until that witness' deposition was taken that the documentary evidence with regard to the habilitation of the paper was produced.

With such proofs of the falsehood of the more material parts of Abrego's testimony, comment on other portions of it might seem superfluous. It may however be observed, that his statement that the certificate given by him to Limantour was required by the latter in order to obtain the approval by the Supreme Government of Micheltorena's acts, is inconsistent with the facts alleged by the claimant to exist.

Abrego states that this certificate was given in Monterey "about a year before Micheltorena left"—that is, in 1844.

But if the facts are as contended for by the claimant, that approval had long since been obtained. The grant of four leagues at Yerba Buena had been approved on the eighteenth of April, 1843, and the grant returned to Limantour. The Islands grant had been approved on the first of March, 1844; and on the twenty-fifth of December, 1843, Micheltorena had, at Limantour's request, given him a certified copy of a dispatch from Bocanegra, dated October

7th, 1843, in which the grants already made to Limantour were confirmed, and leave given to him to acquire further country, town or other property.

In the advertencia or note appended to the "acuerdo" produced by Castañares, and bearing the rubric of Bocanegra, it is stated that "the Supreme Government has heretofore ratified and approved the grant made to the foreigner Limantour, setting down upon the original titles *themselves said ratification and approbation, and returning them to the party interested*, in the months of April, June and December, 1843, and June, 1844."

It is evident, therefore, that on the claimant's own showing, the motive assigned for delivering the certificate to Limantour is absurd.

The examination of Abrego's testimony has not only exposed the perjuries of which that witness has been guilty, but it has incidentally disclosed the fact that no trace whatever of the alleged concessions to Limantour is anywhere to be found in the voluminous records and documents now remaining in the archives of the transactions of the former Government of this country. The pregnant and almost conclusive negative evidence afforded by these archives will hereafter be adverted to.

Before dismissing, however, the subject of the alleged consideration of these grants, a brief statement of the facts as they appear in official documents found in the archives may be necessary.

It is evident that in the early part of 1843, Limantour furnished to Micheltorena advances of money, perhaps derived from the sale of the cargo of the "Ayacucho," which had been wrecked.

In the correspondence of Governor Micheltorena with Manuel Castañares, the first letter is an order to the latter "to proceed to negotiate in the commercial market a loan in money for \$10,000 or \$12,000, hypothecating a certain percentage of the duties that may accrue from the vessels entering the port" of Monterey.

This letter is dated January 9th. It is marked by the clearness, decision and military brevity so conspicuous in all Micheltorena's dispatches, and which so strikingly contrast with the suppliant and almost abject tone of the letter addressed to Limantour, and produced by the latter, dated on the preceding day.

It is difficult to believe that the Governor, who on the ninth

transmitted the brief and peremptory order to Castanares to negotiate a loan, could, on the preceding day, have written the imploring and almost piteous letter to Limantour, so lavish of promises to give him "drafts on Mazatlan," "contracts with the Department," and "to enable his vessel to carry on a profitable trade," as well as grants of any vacant lands he might select, and begging him to "do him the favor to call and see him, that he might have the honor of conversing with him."

Whether the advances made by Limantour were obtained by Castañares, in compliance with Micheltorena's letter of the ninth of January, we cannot now ascertain. It is certain, however, that for his advances made about that time he received a draft on Mazatlan for \$10,221. This draft was, as we have seen, ordered by the Supreme Government to be paid on the twenty-fourth of May, 1843.

On Limantour's return to California in July, 1844, the cargo of the "Joven Fanita" was seized for want of proper documents. This cargo was not restored to him, but was taken by Micheltorena on the eighteenth of August, 1844, to supply his necessities. For these goods he received, on the sixteenth of May, 1845, from the General Treasury of Mexico, a draft on the Custom House at Mazatlan for the sum of \$56,184.12½, as appears by the official communication on the subject, signed by A. Batres and Antonio Maria Esnaurrizar, and addressed to Abrego.

On the receipt of this communication, an investigation was instituted by Abrego to ascertain what amount of goods from the "Joven Fanita" had in fact been received by Micheltorena. For this purpose the declaration of Larkin was taken, with whom the goods had been deposited, and by whom they had been distributed on the orders of Micheltorena. By Larkin's declaration, it appeared that the total value of the goods of Limantour received by him was \$36,104.06½, according to an invoice in the handwriting of the former; but according to another invoice delivered to Micheltorena, their value was 29,632.4 reals.

The investigation seems at this point to have been dropped.

It thus appears that for his advances in money Limantour was, in 1843, paid the sum of \$10,221, and for the cargo of the "Joven

Fanita" he was, in 1845, paid the sum of \$56,184.12½, being, it would seem, an over-payment of about \$20,000 above their value, as shown by his own invoice. Whether this over-payment was the result of a fraud upon the Mexican Government, contrived by himself and Micheltorena, it is unnecessary to inquire.

These two distinct transactions of Limantour with Governor Micheltorena, which are so clearly explained by the archives, seem to have been either by accident or design confused and blended together by his witnesses. The fact of their occurrence has no doubt suggested the plausible idea of founding the pretended concessions of land upon the consideration of supplies and advances furnished to the Governor.

We will now direct our attention to the confirmations of those concessions said to have been obtained from the Supreme Government. The evidence of these confirmations originally submitted to the Board consisted of the marginal memoranda on the grants themselves, and signed Bocanegra, and the certificate signed by Micheltorena and Jimeno, in which the dispatch of Bocanegra of the seventh of October, 1843, is recited.

There has since been produced by Castañares a certified copy of the order in pursuance of which the dispatch is alleged to have been written, with the advertencia or note appended to it already referred to.

With reference to the marginal memoranda or certificates, it is to be observed that they do not on their face purport to be the official act of any Mexican functionary. They do not profess to come from any Minister or Department of that Government. They are authenticated by no seal; nor are they signed by Bocanegra as Minister of any Department of the Mexican Administration.

The fact of the approval of the grants is stated in the certificates, and to those certificates the signature of Bocanegra is appended. It is only from other testimony, which shows that at the date of the certificates Bocanegra held a certain office in the Mexican Government, that we are asked to presume these certificates to have been signed by him officially, and in the exercise of the duties pertaining to his office.

. Whether or not it properly belonged to the Department of which

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he was Minister to furnish such evidence as this of the action of the Supreme Government, and whether the mode in which they are signed in any respect corresponds with the provisions of the Mexican law, which provides for the manner in which the Ministers are to perform official acts, is perhaps doubtful; but it is not now necessary to inquire.

For the more important question is: Did the Mexican Government in fact approve these grants? whatever may be the informality or insufficiency of the mode in which that approval has been manifested.

With regard to the certificate purporting to have been given by Micheltorena to Limantour, in which the communication of Bocanegra is recited, it might be sufficient to say that it bears the spurious or forged seal found on the other papers exhibited in these causes.

It may be observed, in addition, that it purports to be signed by Jimeno as Secretary. But the document was not exhibited to Jimeno when he was examined as a witness, and we have already seen that Jimeno at the time his deposition was taken was ignorant that any grants whatever had been made to Limantour by Micheltorena.

The pretended communication of Bocanegra, set forth in the certificate, refers to an official note of Micheltorena of the twenty-fourth of February, inclosing the memorial of Limantour, in which the latter asked of the Supreme Government permission to acquire property, etc. If Micheltorena had in fact written such a note, and if Bocanegra had answered it as set forth in the certificate, those communications would have been found in the archives.

An exhibit has been filed in these causes, in which all the circulars, decrees and dispatches of the Supreme Government with the Department of Californias, from January, 1842, to December, 1844, are digested. The dates of the various papers are given, and a short statement of the contents. The very great number of these dispatches—the continuous and apparently unbroken order of their dates—afford the strongest presumption that all the official communications received by this Department are preserved.

It is almost needless to say that no communication from Bocanegra, such as that mentioned in Micheltorena's certificate, can be found amongst the numerous official dispatches of that officer.

The communication set forth in the certificate is dated, as we have seen, on the seventh of October, 1843.

Among the dispatches found in the archives is one from the Treasury General of the Mexican Republic, dated on that day, and two from the Ministry of Exterior Relations and Government, the Department over which Bocanegra presided, and dated respectively on the ninth and eleventh of October.

It is to be presumed that the communication from the Treasury General of Mexico was carried by the same mail or courier as that which brought the communication from Bocanegra of the same date, had the letter then been written. It appears, however, that the dispatches from the Minister of Exterior Relations, of the ninth and eleventh of October, were not received until the beginning of 1844.

But the certificate of Micheltorena is dated December 25th, 1843, and states that the communication recited had been received by the last mail.

If there were no other circumstances in the case to prove the spuriousness of this document, I cannot but consider the negative testimony of the archives as almost sufficient of itself to lead us to that conclusion.

The document produced by Castañares, and alleged to have been copied from the archives of Mexico, remains to be considered.

The convincing and unanswerable proofs of the falsehood of this witness' testimony, which have already been adduced, might well justify us in dismissing without further comment any document produced by him, and authenticated by his testimony.

But there is intrinsic evidence of spuriousness in the document itself.

In the note or advertencia appended to the acuerdo or order for the dispatch of the seventh of October, it is stated that the Supreme Government "had approved the grant made to the foreigner Limantour, *setting down upon the original titles themselves said ratification and approval, and returning them to the party interested, in the months of April, June and December of 1843, and June, 1844.*" See the decisions (Acuerdos) set down in the titles themselves, which were returned to him as decreed.

It is evident that the person who prepared this document, in his zeal to furnish evidence of the ratification and confirmation of every grant which Limantour might pretend to have, has lost sight of the fact that the confirmations referred to as "set down on the titles themselves," could not by possibility have been given.

Of all the titles presented by Limantour to the Board, only *one* is dated prior to December, 1843, viz: the four league or Yerba Buena grant; and only two, viz: those presented in these cases, purport to have been confirmed by the Supreme Government.

The confirmation of the Yerba Buena grant purports to have been "set down on the title," in April, 1843. But the confirmations stated to have been set down in June and December of that year, not only do not appear, but there were not at those dates, on the claimant's own showing, any grants in existence on which such confirmations could have been inscribed.

With regard to the confirmation stated to have been set down in June of 1844, it is sufficient to say that none such appears; the pretended confirmation of the Islands grant being dated on the first of March of that year.

It has already been mentioned that the archives of the former Government, now in the office of the U. S. Surveyor General, have been subjected to a thorough and minute examination.

The voluminous documents which had remained in that office confused, in great part unknown, and practically inaccessible, have recently been collected, classified and arranged by Mr. Hopkins, the keeper of the archives, to whose intelligent and conscientious industry we are largely indebted for the information we have obtained respecting the administration of Gov. Micheltorena.

The results of that examination are stated by Mr. Hopkins as follows:

"I have made a special search to discover, among the archives, handwriting similar to that in which the grants in these cases are written.

"I never found any grant or other paper in the archives in that handwriting.

"I have made a special search to discover any entry, memorandum or allusion to these grants among the archives.

"I find no mention or allusion to them, except in the expediente in the Islands case on file in the archives.

"In the Yerba Buena case there is an expediente found in Monterey by Vicente Gomez, which was not in the original archives.

"I have searched in the Journals of the Assembly for some allusion to these grants, but find none.

"I have also searched for the same purpose in the correspondence and miscellaneous documents of the former Government, but find nothing.

"I find nothing whatever in the archives relating to these grants except the document that I have mentioned.

"I find nowhere any reference for an '*informe*' of the Yerba Buena grant to any judicial officer.

"I find no report or any allusion to any report made in that case to the Governor.

"I have made a similar search for reports, references or '*informes*' in the Islands case.

"I find nothing except what is shown by the expediente.

"I have searched for the original confirmation of these grants, but I have found none, nor any mention of or allusion to it.

"I found no original communication from any department of the Supreme Government of Mexico referring or alluding to these grants.

"Among the original documents transferred to the Surveyor General's office, on the dissolution of the Board of Land Commissioners, are several petitions of Limantour for other lands in California.

"No original cases in those grants were filed.

"I find no original grants to him anywhere in the archives, except those produced in those two cases.

"I have searched especially to ascertain the earliest dates at which sealed paper for the year 1843, habilitated by Micheltorena and Castañares, was used at Los Angeles.

"It was first used on the sixth of June, 1843.

"I have also searched to ascertain whether any land titles were issued by Micheltorena at Los Angeles in 1843 on paper purporting to be sealed paper for 1843, habilitated by Micheltorena and Castañares.

"I find only one—the grant to Limantour in the Yerba Buena case, now before the Court."

It is, of course, impossible justly to appreciate the force of the negative testimony furnished by the entire absence of any mention or allusion to the grants in the archives, unless the number, the character and the apparent completeness of those records, as they now exist, be considered.

A slight examination of the documents contained in the printed volume of archive exhibits filed in these cases will show how full, voluminous, and it would seem complete, are the records of every important event during Micheltorena's administration.

It would be tedious now to describe the large mass of orders, dispatches, decrees, circulars, official correspondence, reports, accounts, etc., which are printed at length, or a digest of which is given in the volume referred to.

Two records, more particularly relating to grants of land, may be noticed.

Among the archives is a list headed as follows: "Index of lands adjudicated, and persons to whom they have been conceded." At the foot of the list is a note in the handwriting of Manuel Jimeno, Secretary of Despatch, and signed by him. In this list or Index, which has long been known under the name of "Jimeno's Index," are mentioned the numbers of the expedientes, the names of the lands conceded, and of the persons to whom concessions are made.

On comparing it with the expedientes found in the archives, it is found to correspond with them in all these particulars, with some exceptions, which are noted on the index itself.

This list embraces land concessions from the year 1830 up to the twenty-fourth of December, 1844. No one of the alleged concessions to Limantour appears in this list.

There is also found in the archives a book in which notes or "razones" of land grants during the years 1844 and 1845 are entered.

No one of the grants to Limantour, purporting to have been made in those years and which were presented by him to the Board, are noted in this book, although to four of them is attached the usual memorandum of the Secretary, that "a register of the grant has been made in the proper book."

The total absence in the archives of all record, allusion to or trace of grants so numerous, extensive and extraordinary as the alleged concessions to Limantour, would, of itself, be sufficient to suggest vehement suspicions of their genuineness; but when taken in connection with the other proofs in these cases, it places their true character beyond any reasonable doubt.

An examination, however, of the archives at Monterey has disclosed some facts relating to these grants which deserve mention.

By the testimony of Mr. E. L. Williams, the very intelligent Recorder of Monterey, it appears that there are in his office about thirty documents purporting to be dated at Los Angeles. On all of these dated 1838 the name of that town is written Ciudad de Los Angeles, Angeles abbreviated, or Los Angeles. On none is the town styled as in the Limantour papers, "Pueblo de Los Angeles."

It also appears that of all the papers and documents found at Monterey, no one bears the water marks which appear on the Limantour papers.

It may also here be observed that the grant to Chaves, alleged to have been assigned to Limantour and presented as we have seen by the latter to the Board, bears the same water mark as the certificate of Micheltorena already noticed.

It also appears that on comparing the paper habilitated for the year 1843, found at Monterey, with that on which the Limantour and Castañares petitions are written, important differences exist.

1. The impression of the type on the topmost lines on the latter is smaller than that on the former.

2. On the Limantour and Castañares petitions the impression of the type is not shown upon the last page of the paper.

On all the other papers this impression is visible on all the pages of each sheet, indicating that the sheet must have been folded when placed under the press.

These coincidences, though affording of themselves no conclusive evidence of the spuriousness of these titles, are yet significant as corroborating and confirming our conclusions drawn from other testimony, and as showing that every circumstance connected with them, even the most minute, points unmistakably in the same direction.

Such is the result of the vigorous and thorough examination which has been made of the archives of this Department.

It is shown that the archives at the city of Mexico are equally silent as to the alleged concessions or confirmations in these cases.

It appears that on the fourth of March, 1854, Mr. Cripps, the American Chargé d'Affairs at that city, addressed an official note to Bonilla, the Mexican Minister of Exterior Relations, requesting to be informed whether any record or evidence of titles granted to José Y. Limantour existed in the archives of Mexico.

To this note, Bonilla replies by enclosing to Mr. Cripps communications received by himself from the Heads of the Departments, to whom he had applied for the information required.

In the communication received from the Minister of Fomento it is said :

“I have searched with the greatest care the documents to which the note of the Señor Chargé d'Affairs *ad interim* of the United States refers, and I have not found any evidence whatever of the grant which might have been made to Mr. J. Yves Limantour by General Micheltorena, of four square leagues of land to the west of the bay of San Francisco, Upper California. Nor is there any minute or evidence whatever of the approval of said grant by the Supreme Government, which, as it is said, has been authorized by Señor Bocanegra. Nor are there any titles of any other land which might have been granted to said Limantour in Upper California, and it is remarkable that there is not a single communication of Señor Micheltorena in which notice is given of grants of lands which he had made, whereby knowledge might be obtained in relation to those of the said Limantour.”

The communication from the Ministry of War and Marine, and from that of the general and public archives of the nation, are to the same effect, and in the communication of the Minister of Foreign Affairs to Mr. Cripps, of the sixth of December, 1855, he informs the latter that the three offices of Fomento, of War, and of the General Archives, are the only ones where the evidences of the alleged grants could be found in the city of Mexico. He therefore refers Mr. Cripps to the archives of the public offices of California. How unproductive the search in these latter has been we have already seen.

It is worthy of note that the *acuerdo* and *advertencia* produced by Castañares purport to be among the archives of the Ministry of Fomento, the Department from which the full and explicit communication just cited was received by Bonilla, and that they bear the certificate of the Manuel Orosco, who, in 1854, as Minister of the General and Public Archives, officially informed Bonilla that no documents relating to these titles could be found among the archives of his office.

The evidence which has thus far been considered has established, it is conceived, beyond all question, that the titles of the claimant could not have been made at the time, in the manner, and under the circumstances alleged by him.

We will now briefly consider the direct and positive testimony, which disclose the time and place at which and the persons by whom they were fabricated.

The witnesses who testify on this point are François Jacomet and Auguste Jouan, of whom the former was a clerk in the house of Robin & Co., Mexico, of which Limantour was a partner, and the latter was an agent of Limantour in California.

Jacomet testifies that in the fall of the year 1852 he saw W. A. Richardson, who was then in the city of Mexico, in frequent consultation with Limantour; that he does not know the nature of their business, but that on one occasion he saw them making a plan, for which they borrowed from himself a box of instruments; that Micheltorena frequently came to the house, and after being closeted with Limantour, came out with an order of Limantour on the witness for money; that he saw Micheltorena writing at a table, on which were some sheets of Mexican paper having stamps upon them not of the year in which he was writing; that he saw Emile Letanneur writing on this paper after Micheltorena had written upon it; that he also paid on the order of Limantour four hundred dollars to Mr. Bocanegra, and that he knew of no business transactions between them up to that time.

The witness adds, that a quarrel having arisen between Limantour and Robin, his partner, the former exhibited to the witness a letter of Robin, in which he threatened "to denounce Limantour as a maker of false instruments, and that he would denounce not

only him, but his accomplice, Mr. Bocanegra; that Limantour was exasperated at the charge, and said that if he continued to abuse him in that way, he would, through the influence of Mr. Bocanegra and others, have them put into prison."

Auguste Jouan testifies that in March, 1852, at the city of Mexico, Limantour exhibited to him some four or five titles for land in California signed by Micheltorena, one of which was in the name of Limantour, the others in those of various persons; that Limantour proposed to him to go to California, find out where the lands were, (on which point Limantour could give him no indication) and make a survey of them; that he accordingly went to California, where Limantour also arrived towards the end of 1852; that on the arrival of Limantour, they had frequent conversations in regard to his titles; that he (the witness) expressed surprise at seeing titles of land shown to him by Limantour which he had never seen before, and that he conversed "freely with him without dissimulation" as to their being fraudulent; that when Limantour gave him the titles for translation, he noticed that on the Islands grant the ratification by Bocanegra was dated in 1843, while the grant itself was dated in 1844; that on calling Limantour's attention to this discrepancy, he was told by the latter to erase the figure "3" in the date of the ratification and substitute the figure "4." This he accordingly did, in the presence of Victor Prudon, but intentionally in so rough a manner that a hole was left in the paper, and that he had not seen the paper from that day until it was exhibited to him at his examination, after he had made the foregoing statement with regard to it.

The witness also states that Limantour gave him for translation fourteen titles, none of which were identical with any of those he had previously seen in Mexico.

The witness further states the substance of various conversations between himself and E. Letanneur, in which the latter gave an account of the place and time at which these titles were fabricated and signed by Micheltorena and Bocanegra, but as the admissibility of these conversations is questionable, it is unnecessary to dwell upon them.

The witness further states that on Limantour's arrival, he saw in

his possession a bundle of papers covered "with black glazed cloth, with the official seal of the French Legation stamped upon it, directed to Mr. Dillon, Consul of France in San Francisco; that Limantour at the time said it contained papers; that he again saw this bundle at the St. Francis Hotel, when Letanneur opened one of Limantour's trunks; that Letanneur then told him it contained about eighty blank titles and petitions, all signed by Micheltorena, and which were the same as those used by Limantour for his California land titles. About two days after he was in company with Limantour and Letanneur at the hotel, when Limantour informed them he was going to dine with M. Dillon, and both Letanneur and Jouan remarked that he carried under his overcoat the bundle directed to M. Dillon which he had seen on board the steamer and again at the hotel.

He adds that Letanneur assured him that M. Levasseur, the French Minister, had no knowledge that the official seal had been used in this manner, and that Limantour had obtained it fraudulently, etc.

He also states that in his (witness') conversations with Limantour, the latter "*never denied, but on the contrary, always admitted*" that his titles were fraudulent; and finally, that Letanneur gave him, before he embarked for Mexico, four of the blank titles which, as he said, he had taken from the bundle before described, being induced to do so by Limantour's statement that each one was worth in California \$10,000. That Limantour subsequently offered him \$1,000 if he would surrender them, which he refused. I have not thought it necessary to detail at length the positive, frequent and circumstantial statements contained in this deposition relative to the admissions by Limantour of the fraudulent character of the titles.

If his testimony is believed, there is an end of the case.

But as he, by his own showing, was an agent and accomplice of Limantour, his unsupported declarations are entitled to but little weight. We will therefore consider how far they are corroborated by other proofs.

We have seen that Jacomet testifies that the grants are in the handwriting of Letanneur, and Jouan states that Letanneur admitted to him he had written them.

These statements are strongly corroborated by circumstances heretofore adverted to :

The fact that nowhere in the archives can be found any writing similar to that of these grants ;

That the writing of Captain Maciel, who is said by the claimant's witnesses to have written them, is found on comparison to be essentially different ;

That these grants are both in the same handwriting, although purporting to be made, the one at Los Angeles, and the other, after an interval of ten months, at Monterey ; and though Maciel, according to the claimant's own witnesses, was only *occasionally* employed in the Secretary's office. The spelling of the words *fundadero* and *estacado* ; and finally, the fact that Letanneur himself admitted the writing to be his, before a grand jury, though he subsequently denied it on the stand.

All these circumstances tend strongly to corroborate the testimony we are considering.

The statement of Jouan with regard to Limantour's arrival with the forged titles in his possession, is corroborated by the fact that not only all the petitions of Limantour to the Board of Commissioners, but all the petitions in the cases, the titles in which bear the spurious seal found on the Limantour documents, were filed in the months of February and March, 1853, with one exception—the petition of Josefa de Haro—which was filed on the sixteenth of March, 1852. But the title fabricated by Gomez, and bearing the Limantour seal, was not exhibited until 1854, having been then, as was alleged, recently *discovered*.

Again : the Islands grant mentioned by Jouan as having been altered by him, exhibits the erasure and the hole in the paper described by the witness.

No attempt has been made by the claimants to explain or account for this circumstance. The witness had given his testimony with regard to it before the grant was exhibited to him. The paper had been for several years in the custody of the Surveyor General. It was not attempted to be shown that the witness had seen the document before giving his testimony.

But the strongest and most conclusive corroboration of the testi-

mony of this witness is the fact that he produces one of the blank titles which, as he says, were taken by Letanneur from the bundle of documents in Limantour's possession.

This title consists of a paper habilitated by the rubrics of Micheltorena and Pablo de la Guerra. On the margin is an order of concession signed by Micheltorena, the space where the petition is usually written being left blank. Attached to it is another paper habilitated in the same manner, the first, second and third pages of which are blank, except that on the latter is the signature of Micheltorena. The genuineness of Micheltorena's signatures and rubrics to these documents is established. The rubric of Pablo de la Guerra he pronounces a forgery.

I have been unable to conjecture any mode by which the existence of such documents can be reconciled with the possible integrity of the Governor.

If they were obtained by Letanneur, as stated by Jouan, from a bundle in Limantour's possession—and Letanneur, though subsequently examined by the claimant, does not deny the fact, nor was he interrogated with respect to it—they show that Limantour had in his possession the means and instruments for effecting the fraud charged upon him. And even if we regard the statement that they were obtained from Limantour as doubtful, they nevertheless remain in Court, the mute but undeniable evidence of the fact that Gov. Micheltorena has been willing to lend himself to the fabrication of false titles, and to affix his name to documents which could only have been intended to be used for some fraudulent purpose.

If all other proofs in these cases were wanting, the fact that documents are produced bearing the genuine signature of Micheltorena, and the forged rubric of Pablo de la Guerra, coupled with the fact that no trace of any of the alleged grants to Limantour is found in the archives, would be sufficient to suggest vehement suspicions as to their genuineness. But our suspicions become certainties when these documents are shown to have been in the possession of the claimant himself about the time at which he first presented his numerous claims to the Board for confirmation; and that among the papers so presented is found one (the petition in the Mendocino case) bearing the genuine signature of Micheltorena, and the forged

rubric of Pablo de la Guerra, precisely resembling the blank documents produced by Jouan.

When we find, also, on the petition of the Islands, that the marginal concession speaks of the "*land solicited*," while the "islands" constitute the chief objects of the petition; a form of expression which would hardly have been used had the marginal concession been written after, and with a knowledge on the part of the grantor of the contents of the petition.

We have, at length, reached the end of our protracted and laborious examination of the evidence in these cases. We have not thought it necessary to notice in detail much of the testimony which has been taken.

In view of the conclusive evidence by which it is shown that these titles cannot be genuine, we have considered the testimony of the witnesses who state that at various times Limantour spoke of or exhibited these grants, as deserving of but little weight.

In some instances these witnesses have, no doubt, intended to testify truly. But the date or the import of the conversations may have been inaccurately remembered, or Limantour may have then been contemplating the frauds he subsequently consummated. But no declarations of Limantour that he had titles for lands in California, no matter when, to whom, or how often made, can overthrow or even affect the force of the demonstration which has shown these titles to be spurious, and especially when to the evidence of those declarations is opposed testimony of his admissions of their fraudulent character, and the undoubted fact that from the conquest of the country until 1852, he neglected to assert or even give notice of his claims; and that on one of them he suffered a city to be founded, lots to be sold at extravagant prices, and buildings to be erected at great expense upon the land, for four years, during which he neither in person, by an agent, or by letter, or a public notice, apprised the inhabitants of his rights.

A brief recapitulation of the more important facts established by the proofs will conclude our labors.

We have seen that the claims in these cases are but two out of eight presented by the claimant to the Board for confirmation.

The alleged concessions are found to be in all respects extraor-

dinary and unprecedented, whether we consider the enormous extent of the land granted and its situation and importance to the Government, the character of the grantee, or the consideration on which the grants are alleged to have been made.

To make any grant of land to a foreigner was a departure from an ancient and settled policy of the Spanish and Mexican Governments; but to grant him the most important port on the Pacific, with every military position about it or commanding an entrance to it, was an act which, if committed, we may safely affirm was without parallel in the history of Mexico, or perhaps in that of any civilized nation.

The grants presented in the cases before the Court are in their form as singular as in their object. They are unattested by the Secretary, although every other grant made during Micheltorena's administration bears the signature of the Secretary, as required both by custom and by positive law.

They are in the same handwriting, though made at different places and with an interval of ten months between them, although the person who is alleged to have written them is admitted to have been employed only occasionally in the office. Among all the records of the former Government, this handwriting nowhere else appears—a fact which increases the improbability that Maciel could have written these two grants only. His handwriting is found in the records, but it in no respect resembles the writing in these grants. And finally, two witnesses swear that the writing is that of Emile Letanneur, a clerk of the claimant.

The grants are made without informes from any judicial officers. In the Islands case, none appears to have been asked. In the Yerba Buena case, it is recited that they were asked and obtained. No such reports or references to obtain them can be found in the archives. And it is shown by the testimony, and by the subsequent official acts of the officers themselves, that none could have been asked for or given.

The only reference pretended to have been made, was by Jimeno to Richardson, an officer whose duties had no connection with the granting of lands, who at the time did not possess the confidence of the Government, and who was shortly afterwards removed for mis-

conduct in office. The letter purporting to be written by Jimeno, the Secretary, is not presented to that officer, although examined as a witness, and he declares his ignorance that any grant whatever was made to Limantour, although he was Secretary of the Department, and although several of the grants presented by the claimant to the Board bear his attestation—a statement which is corroborated by the records of his official action on subsequent petitions for a part of the land embraced within these grants.

The expediente in the Yerba Buena case is found in 1852, in an office which was not its proper place of custody, by a person whose own confession in another case shows him to have been engaged in fabricating titles, and whose character to this Court, which has so often been called on to pass upon his credibility, no attempt has been made to vindicate. This expediente is shown to have escaped the notice of several persons whose duty or whose interest it was to examine thoroughly the records of the office where it is said to have been found, and a material part of the testimony of the only witness (Serrano) who pretends to have seen it in the office before its discovery by Gomex, is conclusively shown to be a deliberate falsehood.

The expediente in the Islands case is found among the archives, but by whom, and when placed there, we know not. It is not numbered nor noted in Jimeno's index, nor referred to in any other document whatever.

The expedientes in all the other cases which the claimant presented to the Board for confirmation, and which were rejected, have disappeared, nor is any trace of such grants, or even of any application for them, to be found, with the single exception of the petition for eighty leagues in Mendocino county, for which the original grant was not produced, nor was any proof offered to establish it.

We find that all the documents presented by the claimant bear a similar seal; and that seal differs from the genuine seal elsewhere found on public documents. It is proved by the records themselves, by the testimony of an unimpeachable witness, and by the admission of Castañares himself, who as Administrator of the Custom House was its legal custodian, that there was but one seal during the years in which these grants purport to have been made; and the fact that this seal appears on eight other documents which are produced,

corroborates, when those documents are examined, our convictions of its spuriousness.

With respect to the Yerba Buena grant, it is shown that the habilitated paper on which the petition and grant are written could not have been in existence at the time those documents are dated. This fact is established, not only by the official correspondence, which shows when the order for the habilitation was first given, and when it was executed and the paper transmitted to and received by the Governor, but by the fact that no habilitated paper was used at Los Angeles until after the date when the correspondence shows it to have been transmitted, and that long subsequently to the date of the documents now produced, proceedings on an application for lands were suspended to await the arrival of sealed paper which had not yet been received.

With respect to the Islands grant, it is shown that at the date of that grant, and also of the grant for Laguna de Tache, presented by Limantour to the Board, but abandoned without proof of any kind, the alleged grantee was not in the country, nor had he been for several months previously, nor did he arrive until more than six months afterwards. The evidence by which this fact is established is the testimony of the claimant's chief witness, Manuel Castañares, and documents presented and signed by Limantour and found among the archives.

With regard to the alleged consideration on which the grants are founded, it is shown that for any advances made prior to the first grant, Limantour received a draft on Mazatlan, which may justly be presumed to have been in full of all demands against the Government up to that time. That he shortly after left the country, and did not return until above eighteen months afterwards, and therefore could not have made the advances or furnished the goods on which the two subsequent grants, made in 1843, purport to be founded.

That no letter of Micheltorena, referring to such further advances, and stating that further concessions had been made, could have been delivered by Limantour to Castañares in February, 1844, in Mexico, because Limantour had not been in California to make the advances, nor was he in the city of Mexico in February, 1844, to deliver the letter.

It is also shown that for his goods, which were taken in August, 1844, by Micheltorena, he was paid \$56,184 12½, being an overpayment of about \$20,000.

And, finally, that the statement made by Abrego as to the contents of his books, and the mode of keeping the accounts of the Government, is conclusively disproved by the production of the books themselves.

With respect to the alleged confirmations, it appears that those inscribed upon the titles themselves are unattested by any seal; that they are not signed by Bocanegra, as Minister, nor do they purport to be the official act of any Mexican functionary.

It also appears that the certificate of Micheltorena, in which the dispatch of Bocanegra is recited, bears the spurious seal found on the other documents presented by Limantour.

That, although it purports to be attested by Jimeno as Secretary, it was not exhibited to him when examined as a witness by the claimant, and he denies all knowledge of any grants whatever to Limantour.

That neither the alleged letter of Micheltorena, to which Bocanegra's dispatch purports to be a reply, nor the dispatch of Bocanegra is found in the archives, nor any mention of or allusion to it, although a dispatch from the Treasury General of the same date, and two dispatches from Bocanegra's own Department, dated a few days subsequently, are found in the archives among the official letters of Micheltorena's administration. It also appears that these last communications, although relating to a most important subject, were not received until long after the time when, according to Micheltorena's certificate, the dispatches approving of the concessions to Limantour had reached California; and the Custom House record of arrivals during the months of November and December, 1843, renders it almost certain that no dispatch dated in Mexico on the seventh of October, 1843, could have reached California on the twenty-third of December of the same year.

With regard to the "acuerdo" or order from the archives of Mexico, with the "advertencia" or note attached to it, produced by Castañares, it is evident that the statements made in the latter are untrue. For no ratification could have been "set down on the

original titles themselves in the months of June and December, 1843," for the reason that no titles were in existence in the month of June but the Yerba Buena grant, of which the approval is dated April the 18th; and the two grants dated respectively December 4th and December 16th, 1843, could not have been presented to the Supreme Government of Mexico in the same month as that in which they are dated.

Nor do these grants, nor any others presented by Limantour, purport to bear "confirmations set down upon them" as stated in the "advertencia"—for the grant of the fourth of December, 1843, (Laguna de Tache) has no approval whatever inscribed upon it; and that of the sixteenth of December (the Islands grant) has an approval dated March 1st, 1844.

It also appears from the communications addressed by the Minister of Exterior Relations of Mexico to Mr. Cripps, the United States Chargé d'Affaires, that search has been made in the only three public offices of that Republic in which evidence relating to the titles of Limantour would be found if it existed, and that those archives are as barren of all record or trace of those letters or confirmations as are those of California.

And, finally, we have the positive testimony of two witnesses, the one a clerk and the other an agent of Limantour, who identify the handwriting of the grants; and one of whom describes the private interviews of Bocanegra, Micheltorena and Limantour, and states the amount of money paid to the former on the order of the latter; while the other, in addition to his evidence of the frequent admissions by Limantour of the fraudulent character of these titles, produces in Court a blank petition and grant bearing the genuine signatures of Micheltorena and the forged rubric of Pablo de la Guerra, demonstrating that Limantour had in his possession papers which not only afforded the means of committing the frauds charged upon him, but which could not have been prepared for any honest purpose.

If to all this be added the fact that the testimony of Prudon, Serrano, Cambuston, Abrego and Castañares, the chief witnesses of the claimant, has been shown in almost every important particular to be false, we are justified in asserting that the proofs in these cases have the force and certainty of a demonstration.

On reviewing the whole case, it is not easy to confine within the limits of judicial moderation the expression of our indignation at the fraud which has been attempted to be perpetrated.

Whether we consider the enormous extent or the extraordinary character of the alleged concessions to Limantour; the official positions and the distinguished antecedents of the principal witnesses who have testified in support of them, or the conclusive and unanswerable proofs by which their falsehood has been exposed; whether we consider the unscrupulous and pertinacious obstinacy with which the claims now before the Court have been persisted in—although six others presented to the Board have long since been abandoned—or the large sums extorted from property owners in this city as the price of the relinquishment of these fraudulent pretensions; or, finally, the conclusive and irresistible proofs by which the perjuries by which they have been attempted to be maintained have been exposed, and their true character demonstrated—it may safely be affirmed that these cases are without parallel in the judicial history of the country.

It would have been more agreeable to the Court, and would have lessened its labors, had any argument been addressed to it in behalf of the claimant. But the counsel who had principally conducted the case for Limantour, shortly before the hearing announced that they had retired from the case. No reason for this step was assigned; but the Court was not at liberty to treat it as an abandonment of the cause from any conviction on the part of those gentlemen of its fraudulent character.

The remaining counsel, though he attended at the hearing, and was invited by the Court to submit a brief on behalf of the claimant, declined to do so.

The Court has therefore felt it to be its duty to give to the evidence a more elaborate examination, and to set forth the grounds of its decision at greater length than would otherwise have been necessary.

It is no slight satisfaction to feel that the evidence has been such as to leave nothing to inference, suspicion or conjecture, but that the proofs of fraud are as conclusive and irresistible as the attempted fraud itself has been flagrant and audacious.



GOVERNORS OF CALIFORNIA.

GASPAR DE PORTALÁ, FROM 1767 TO 1771.

It was under Portalá that the Reverend Father Junipero Serra founded the first Missions of Upper California.

Father José Miguel Serra was born on the twenty-fourth of November, 1713, on the Island of Majorca. At sixteen he entered the convent of Jesus, in Palma, the capital of the island. On the fifteenth of September, 1731, he was admitted to holy orders under the name of Father Junipero. On the thirteenth of April, 1749, he sailed from the island with his bosom friend and biographer, Father Francisco Palou, for Mexico. They left Cadiz on the twenty-eighth of August, reached Vera Cruz on the sixth of December, and travelling on foot, Father Junipero arrived at Mexico on the first of January, 1750. From thence he was sent on the Sierra Gorda, among the Pima Indians, where he remained nine years; from thence he travelled over Mexico, preaching the gospel, until the middle of 1767.

The decree of Carlos III, expelling the Jesuits from his dominions, was put in force on the twenty-fifth of June, 1767. As to Lower California, the Viceroy, Marquis de Croix, placed its execution in the hands of the Catalonian Captain of Dragoons, Gaspar de Portalá, appointing him at the same time Governor of the Peninsula, and placing under his command fifty well armed men to expel the Jesuits from the Missions by force, if necessary.

Portalá embarked in *Matchantel* with his forces, and fourteen Franciscan monks to succeed the Jesuits. Being prevented by a storm from reaching Loreto, in Lower California, as ordered by the Viceroy, he landed at San Bernabé towards the latter part of 1767. From San Bernabé, Portalá went to Loreto with twenty-five soldiers and the Captain of the Peninsula. In his conversation with the Captain, he discovered that no force would be required to expel the sixteen Jesuits. When he reached Loreto, he sent for Father Bonito Duerae, missionary of Guadalupe and Superior of the Missions. He communicated his decree to Father Duerae and two other Jesuits. He found that the Captain was right, as the Jesuits respectfully submitted to the order, and left California on the third of February, 1768, on the *Concepcion*, bound for San Blas.

After the expulsion of the Jesuits, the Viceroy, with the concurrence of the Inspector General of the kingdom, Don José de Galvez, decided to place the Missions of Lower California under the care of the college of San Fernando, in Mex-

ico. For that purpose they required twelve priests of the college, and Father Junipero was appointed President of these missionaries. On the fourteenth of July, 1767, they left Mexico for San Blas. On the twenty-first of August they reached Tepic, where four other priests were taken. Whilst they were awaiting there the construction of the vessels which were to carry them, the Concepcion arrived at San Blas with the Jesuits, and they sailed on that vessel on the twelfth of March, 1768. They arrived at Loreto on the first of April; the next day each one went to the Mission assigned him, Father Junipero taking care of the Mission of Loreto.

Galvez having been invested with powers to visit the Missions of Lower California, and having a royal order to send an expedition by sea to settle the Port of Monterey, in Upper California, or at least that of San Diego, he sailed from San Blas on the twenty-fourth of May, 1768, and reached the Peninsula on the sixth of June.

In order to better carry out the intentions of his majesty, Galvez made up his mind that, besides the expedition by sea, he would send another by land. He communicated this idea to Father Junipero, who agreed with him. They decided that three vessels should sail to meet the expedition by land at San Diego; that three missionaries should leave on the first two, and another on the vessel to start subsequently. They agreed that three Missions should be founded: one at San Diego, another at Monterey, and a third at San Buenaventura, midway between the two first.

On the ninth of January, 1769, the San Carlos left La Paz with the members of the expedition, among whom was Pedro Fajes, who became Governor of Upper California, in 1782, and had under his command twenty-five Catalonian volunteers. The San Antonio left San Lucas on the eleventh, and the Señor San José left Loreto on the sixteenth of June of the same year.

Galvez divided the expedition by land in two parts. Portalá was appointed commander-in-chief of the expedition, and Captain Fernando Rivera y Moncada, his second in command, was to take charge of the first division.

The first division arrived at San Diego on the fourteenth of May, 1769, after fifty-two days travel from Loreto. The second division, under the charge of Portalá, with whom was Father Junipero, arrived on the first of July, after forty-six days travel. They found in port the San Antonio, which had arrived on the eleventh of April, and the San Carlos, which reached San Diego twenty days after. The Señor San José not having been heard from, it was presumed that it was wrecked.

On account of the loss of life among the crews of the vessels, it was agreed that the expedition by sea should join the one by land, and the San Antonio was ordered to San Blas for additional crew and more supplies for the two vessels. The San Carlos remained at anchor to await the arrival of the San Antonio, when both were to sail for Monterey.

On the sixteenth of July, 1769, Father Junipero founded the Mission of San Diego, at the port of that name, which in 1603 had been discovered by Admiral Sebastian Vizcaino, who in the same year discovered the port of Monterey.

Portalá, Fajes Moncada, and seventy-three others left San Diego by land on the fourteenth of July, 1769, to seek out the port of Monterey; they, however, returned on the twenty-fourth of January, 1770, after having gone as far north as San Francisco without finding the above named port.

The San Antonio left San Blas direct for Monterey. Fortunately, the loss of her anchor in the neighborhood of Santa Barbara compelled her to put back for San Diego to get an anchor from the San Carlos. This vessel being loaded with supplies and having an additional crew, it was resolved that a new expedition, by land and sea, should start for Monterey. Father Junipero sailed on the San Antonio on the sixteenth of April, 1770, and Portalá started by land the next day.

The San Antonio reached Monterey on the thirty-first of May, 1770. The expedition by land had already arrived there on the twenty-fourth.

On the third of June, the ceremony of taking possession of the port was performed, and on that day the Mission of San Carlos was founded.

The dates of the foundation of the other Missions are to be found at No. 609 in the annexed table of land claims presented to the Land Commission.

Whilst gathering the foregoing facts from the life of Father Junipero by Father Francisco Palou, where they are related with such pious simplicity, we involuntarily feel a desire to pay a just tribute to those holy men whose sole object was to Christianize the Indians of the Californias. It was neither gold nor honors which drew them to encounter the dangers and hardships we find described in those interesting pages, and which breathe the true fervor of the servants of the Lord; but they were true apostles, devoting their evangelical lives in teaching the simple doctrines of their faith, and the trades and occupations of civilized communities.

Father Palou tells us that on the fifteenth of August, 1769, at San Diego, one month after the founding of the Mission, Father Junipero and his party were attacked by a large number of Indians, and they were driven away only after the loss of a boy. A few days after the attack, the Indians appearing to be more friendly, Father Junipero attempted to baptize a child for the first time. Whilst completing the ceremony by pouring water on the child out of a shell, the Indians snatched away the child, leaving the confused Father with the shell in his hands. It required all his prudence to prevent the soldiers from avenging the insult. The grief experienced by the Father was so great that he could not get over it for several days, and he attributed his ill success to his own sins. Many years after, whilst stating this circumstance, his eyes would be filled with tears, but as he could then count 1046 christianized Indians in that Mission, he would exclaim: "But let us thank God, that without the least opposition, we have accomplished so much."

On the fourth of November, 1775, the Indians again attacked that Mission, reduced it to ashes, cruelly massacred Father Luis Jaime, and killed several other persons.

In August, 1781, the Yumas set fire to the two Missions on the Colorado river, killed four priests, eight soldiers and Captain Fernando Rivera y Moncada.

These were some of the dangers encountered by these devout men; but nothing can better show the meekness and humility of Father Junipero than the following anecdote told us by Father Palou. After landing, in December, 1749, in Vera Cruz, he traveled on foot to Mexico; the journey caused his feet to swell considerably. One night, in his sleep, he scratched one of them to such an extent, that when he awoke he had made such a severe wound that he never got over it through life. Immediately preceding Galvez's arrival, and to meet him, he had walked nine hundred miles, and as in all his travels he never wore either socks, boots or shoes but simply sandals; one evening when he arrived at San Juan de Dios, in Lower California, on his way to San Diego, his wound became such that he could not go

any further. Portalá, seeing his condition, ordered his men to prepare a litter to carry him. Father Junipero was so deeply affected at the idea of giving so much trouble to the men, that placing his faith in God, he called to him Juan Antonio Coronel, the *arriero*. "My son," said he, "could you not prepare something to relieve my foot and leg?" "Why, Father," answered Coronel, "what can I know? am I a doctor? I am only an *arriero*, and all that I have cured are the wounds of beasts." "Well, my son," said the holy man, "only consider that I am a beast, and that this wound is nothing but a beast's wound, which has caused the swelling of the leg and those pains which even keep me from sleeping, and prepare me the same thing you would apply to a beast." The *arriero* smiling, with all the assistants, said, "I will do it, Father, to please you." He took some tallow and gathered a few herbs; he crushed and mixed them well with two stones, and after stewing the mixture he applied it.

With the help of God, as Father Junipero writes to Father Palou when he arrived at San Diego, he slept all that night till morning. He was so relieved that he said his morning prayers as customary, and celebrated mass as if nothing had happened, and the expedition kept on without losing an instant.

In July, 1784, Father Palou, who was then in San Francisco, having received a letter from Father Junipero requesting his presence in Monterey, he reached that place on the eighteenth of August, and found Father Junipero afflicted with the disease which was to terminate his Christian career. On the twenty-eighth, a little before ten in the evening, Father Junipero, in his room, was still able to walk to the boards covered with a blanket, on which he rested; and after reclining on them with the Holy Cross near by, so softly did his soul depart that his faithful companion thought it was nothing but a quiet slumber.

Father Junipero was in his seventy-first year when he died. In the fifteen years of his life in Upper California, five Spanish and nine christianized Indian settlements had been made, and 5,800 Indians had been baptized.

The following particulars are drawn from the Spanish archives of the State of California:

On the twelfth of November, 1770, the Viceroy Marquis de Croix writes to Pedro Fajes, commander of the Presidio at Monterey, directing him to make a settlement at the port of San Francisco.

FELIPE BARRI, FROM 1771 TO 1774.

The first mention we find of Barri as Governor is in a letter he addresses in that capacity from Loreto to Pedro Fajes, commander of the Presidio of Monterey, dated the second of June, 1771.

On the seventh of September, 1773, Pedro Fajes was succeeded in the command of the Presidio of San Diego and Monterey by Fernando Rivera y Moncada, under an order of the Viceroy Bucarely.

FELIPE DE NEVE, FROM 1774 TO 1782.

On the twenty-eighth of December, 1774, Governor Barri is succeeded by F. de Neve.

On the twentieth of July, 1776, Governor Neve is ordered by the Viceroy to remove from Loreto to the Presidio of Monterey; he arrived there on the third of February, 1777. Moncada is then transferred as Lieutenant of Neve at Loreto, or at whatever place the Presidial might be located.

PEDRO FAJES, FROM 1782 TO 1790.

Fajes became Governor on the seventh of September, 1782.

JOSE ANTONIO ROMEU, FROM 1790 TO 1792.

Romeu was appointed Governor by the Viceroy Conde de Riverra Gigado on the first of September, 1790; he was put in possession on the seventeenth of April, 1791; he died on the ninth of April, 1792.

JOSE JOAQUIN DE ARRILLAGA, FROM 1792 TO 1794.

Arrillaga became Governor, *ad interim*, on the ninth of April, 1792, on the death of Romeu.

DIEGO DE BORICA, FROM 1794 TO 1800.

Appointed by the Viceroy, May 14th, 1794; he sails for Mexico in January, 1800, and leaves Arrillaga as his successor, *ad interim*; Borica died in 1801.

JOSE JOAQUIN DE ARRILLAGA, FROM 1800 TO 1814.

Remains Governor until 1814. From an inventory of his library in the archives, it would appear that he was a student and a man of learning.

JOSE ARGUELLO, GOVERNOR *ad interim*, FROM 1814 TO 1815.

PABLO VICENTE DE SOLA, FROM 1815 TO 1823.

News having reached Governor Sola that a sovereign Gubernado Junta had been installed at Mexico, it was communicated to an assembly of ten delegates of California, held on the ninth of April, 1822, which declared, that from that date the province of California was dependent alone on the Government of Mexico and independent of the dominion of Spain, as well as of any other foreign power. Governor Sola signed the declaration.

On the twentieth of May, 1822, Colonel P. V. Sola was appointed Deputy to the Congress of the empire. He, however, appears to be acting as Governor up to the ninth of November, 1822.

GOVERNORS UNDER MEXICO.

LUIS ARGUELLO, FROM 1823 TO 1826.

Acted as Governor, *ad interim*, from January, 1823.

JOSE MARIA DE ECHEANDIA, FROM 1826 TO 1831.

Arrived at Loreto, June 25th, 1825, and gives notice to Arguello that he had been appointed Governor.

On December 30th, 1829, Echeandia orders all Spaniards who will not adhere to the new system to remove their property.

MANUEL VICTORIA, FROM 1831 TO 1832.

On the thirty-first of January, 1831, takes charge of the Government.

On the ninth of December, 1831, Echeandia writes to General Vallejo that Governor Victoria is disarmed, his forces are scattered, and he is in a dying condition.

On the fifteenth of January, 1832, Echeandia writes to the President of the Departmental Assembly that Victoria had left California for Mexico on the American ship Pocahontas.

PIO PICO, FROM 1832 TO 1833.

On the eleventh of January, 1832, Pio Pico being first vocal of the Departmental Assembly, becomes Governor, *ad interim*.

The Ayuntamiento of Monterey, in the meantime, refuses to recognize Pio Pico as Governor, preferring that Echeandia should act as such until news be received from the Supreme Government.

It would seem that there were two Governors, Pio Pico acting as first vocal of the Assembly, and Echeandia appointed by the Ayuntamiento of Monterey.

JOSE FIGUEROA, FROM 1833 TO 1835.

Appointed by the President in April, 1832. Landed at Monterey on the fifteenth of January, 1833; on the twenty-fifth of the same month, Echeandia submits to Figueroa; Figueroa asks to be relieved on the twenty-fifth of March, 1833; he died at Monterey in 1835.

JOSE CASTRO, FROM 1835 TO 1836.

Being first vocal of the Departmental Assembly, he was appointed Governor by Figueroa, then acting as Governor, on the twenty-ninth of August, 1835, and he afterwards became Governor, *ad interim*, on the death of Figueroa.

NICOLAS GUTIERREZ, IN 1836.

Acted as Governor, *ad interim*, from the second of January, 1836.

MARIANO CHICO, IN 1836.

Took charge of the Government on the third of May, 1836. Appointed by the President on the thirtieth of July of the same year. He leaves the Government under the charge of Gutierrez, in anticipation of his trip to Mexico to represent the popular disturbances caused by the Ayuntamiento of Monterey.

NICOLAS GUTIERREZ, 1836.

Acts again as Governor, *ad interim*, for a few months.

JUAN B. ALVARADO, FROM 1836 TO 1842.

On the sixth of November, 1836, the Departmental Assembly declares California a free and independent State, overthrows Gutierrez, who leaves the country. On the twentieth of August, 1837, Antonio Carrillo writes to Governor Alvarado that his brother Carlos Antonio Carrillo had been appointed Governor by the President. In 1838, Alvarado was appointed Governor, *ad interim*, by the Supreme Government. On the seventh of August, 1839, he was appointed permanent Governor by the President.

MANUEL MICHELTORONA, FROM 1842 TO 1845.

Appointed Governor by the President, and entered on the duties of his office on the thirtieth of December, 1842.

PIO PICO, FROM 1845 TO 1846.

Became Governor as first vocal of the Departmental Assembly, on the fifteenth of February, 1845. Having been recommended by the Departmental Assembly for the position of Governor in its session of the twenty-seventh of June, 1845, on the third of September, of that year, he was appointed Constitutional Governor by the President, *ad interim*, of Mexico. Due notice of his appointment was published on the fifteenth of April, 1846.

APPENDIX.

TABLE OF LAND CLAIMS,

PRESENTED TO THE COMMISSION PURSUANT TO THE PROVISIONS OF THE ACT
OF CONGRESS OF MARCH 3D, 1851, ENTITLED "AN ACT TO ASCERTAIN
AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA."

NOTE.—The first number is that of the Commission; the second is the number of the District Court. N. D. and S. D. stand for Northern or Southern District. Where there is a third or other numbers they correspond to the Jimeno Index, from No. 1 to No. 433, and to Hartnell's Index, a continuation of Jimeno's Index, from No. 434 to No. 579.

1, 1, N. D., 352. John C. Fremont, claimant for Las Mariposas, 10 square leagues, in Mariposa county, granted February 29th, 1844, by Manuel Micheltorena to Juan Bautista Alvarado; claim filed January 21st, 1852, confirmed by the Commission December 27th, 1852, by the District Court June 27th, 1854, and by the U. S. Supreme Court in 17 Howard, 542; containing 44,386.83 acres. Patented.

2, 54, N. D. Maria de la Soledad, Ortega de Arguello *et als.*, claimants for Las Pulgas, 4 square leagues, in San Mateo county, granted December 10th, 1835, to Luis Arguello; claim filed January 21st, 1852, confirmed by the Commission October 2d, 1853, by the District Court January 26th, 1855, and by the U. S. Supreme Court in 18 Howard, 539; containing 35,240.47 acres. Patented.

3, 2, N. D., 266. Archibald Ritchie, claimant for Suisun, 4 square leagues, in Sonoma county, granted January 28th, 1842, by Juan B. Alvarado to Francisco Solano; claim filed January 21st, 1852, confirmed by the Commission January 3d, 1852, by the District Court November 8th, 1853, and by the U. S. Supreme Court in 17 Howard, 525; containing 17,754.73 acres.

- 4, 100, N. D. Domingo and Vicente Peralta, claimants for San Antonio, in Alameda county, granted August 16th, 1820, by Don Pablo Vicente de Sola to Luis Peralta; claim filed January 21st, 1852, confirmed by the Commission February 7th, 1854, by the District Court January 26th, 1855, and by the U. S. Supreme Court in 19 Howard, 343; containing 19,143.86 acres.
- 5, 297, N. D. Thomas Jefferson Smith, claimant for 200 varas, Mission Dolores, in San Francisco county, granted July 26th, 1843, by Juan B. Alvarado to Domingo Feliz; claim filed January 21st, 1852, rejected by the Commission March 20th, 1855, and for failure of prosecution appeal dismissed April 21st, 1856.
- 6, 416, N. D., 250. Roland Gelston, claimant for New Helvetia, 11 square leagues, in Yuba and Sutter counties, granted June 18th, 1841, by Juan B. Alvarado to John A. Sutter; claim filed January 21st, 1852, confirmed by the Commission January 26th, 1856, and by the District Court November 25th, 1859. See No. 92.
- 7, 174, N. D., 286. Bernard Murphy, claimant for Las Uvas, 3 square leagues, in Santa Clara county, granted June 14th, 1842, by Juan B. Alvarado to Lorenzo Pineda; claim filed January 22d, 1852, confirmed by the Commission September 19th, 1854, and by the District Court January 14th, 1856; containing 11,079.93 acres.
- 8, 77, N. D., 353. Robert F. Stockton, claimant for Potrero de Santa Clara, 1 square league, in Santa Clara county, granted February 29th, 1844, by Manuel Mieheltorena to James Alexander Forbes; claim filed January 24th, 1852, confirmed by the Commission November 15th, 1853, and by the District Court October 29th, 1855; containing 1,939.03 acres.
- 9, 13, S. D., 25. William G. Dana, claimant for Nipoma, 15 square leagues, in Santa Barbara county, granted April 6th, 1837, by Juan B. Alvarado to Guillermo Dana; claim filed January 26th, 1852, confirmed by the Commission March 1st, 1853, and dismissed December 20th, 1856; containing 32,728.62 acres.
- 10, 214, N. D. Emilius Voss, claimant for Las Mariposas, 11 square leagues, in Mariposa county, granted September 19th, 1843, by Manuel Mieheltorena to Manuel Castañares; claim filed January 26th, 1852, rejected by the Commission November 21st, 1854, and for failure of prosecution appeal dismissed April 21st, 1856.
- 11, 299, N. D. Joel S. Polack, claimant for Island of Yerba Buena, in Bay of San Francisco, granted November 8th, 1838, by Juan B. Alvarado to Juan José Castro; claim filed January 27th, 1852, confirmed by the Commission May 22d, 1855, and rejected by the District Court March 17th, 1858.

- 12, 13, N. D., 462. Archibald A. Ritchie, claimant for Guenoc, 6 square leagues, in Sonoma county, granted May 8th, 1845, by Pio Pico to George Rock; claim filed January 27th, 1852, confirmed by the Commission December 18th, 1852, and appeal dismissed December 15th, 1856; containing 21,220.03 acres.
- 13, 10, S. D., 147. José de la Guerra y Noriega, claimant for San Julian, 6 square leagues, in Santa Barbara county, granted April 7th, 1837, by Juan B. Alvarado to George Rock; claim filed January 28th, 1852, confirmed by the Commission February 21st, 1853, by the District Court December 17th, 1856, and appeal dismissed February 24th, 1859; containing 48,221.68 acres.
- 14, 31, N. D., 35. Elam Brown, claimant for Acalanes, 1 square league, in Contra Costa county, granted August 1st, 1834, by José Figueroa to Candelario Valencia; claim filed February 2d, 1852, confirmed by the Commission February 14th, 1853, and appeal dismissed November 26th, 1856; containing 3,328.95 acres. Patented.
- 15, 15, S. D., 171. Joaquin and José A. Carrillo, claimants for Lompoc, in Santa Barbara county, granted April 15th, 1837, by Juan B. Alvarado to Joaquin and José A. Carrillo; claim filed February 2d, 1852, confirmed by the Commission April 11th, 1853, and appeal dismissed February 24th, 1857; containing 38,335.78 acres.
- 16, 52, N. D., 254, 411. Josefa Carrillo Fitch *et al.*, claimants for Sotoyomé, 8 square leagues, in Sonoma and Mendocino counties, granted September 28th, 1841, by Mannel Micheltorena to Henry D Fitch; claim filed February 2d, 1852, confirmed by the Commission April 18th, 1853, and appeal dismissed November 17th, 1857; containing 48,836.51 acres.
- 17, 6, N. D., 494. José de Jesus Noé, claimant for San Miguel, 1 square league, in San Francisco county, granted December 23d, 1845, by Pio Pico to José de Jesus Noé; claim filed February 2d, 1852, confirmed by the Commission December 18th, 1852, and appeal dismissed October 23d, 1856; containing 4,443.38 acres.
- 18, 208, N. D. Antonio Maria Osio, claimant for Island of Los Angeles, in San Francisco county, granted June 11th, 1839, by Juan B. Alvarado to Antonio Maria Osio; claim filed February 2d, 1852, confirmed by the Commission October 24th, 1854, by the District Court September 10th, 1855, and decree reversed by the U. S. Supreme Court and cause remanded, with directions to dismiss the petition, 23 Howard, 273.
- 19, 44, N. D. Antonio Cazares, claimant for Cañada de Pogolomé, 2 square leagues, in Marin county, granted February 12th, 1844, by Manuel Michel-

torena to Antonio Cazares; claim filed February 3d, 1852, confirmed by the Commission April 11th, 1853, by the District Court March 24th, 1856, and appeal dismissed December 8th, 1856; containing 8,780.81 acres. Patented.

- 20, 102, S. D., 82. Juan Miguel Anzar, claimant for Los Aromitas y Agua Caliente, 3 square leagues, in Monterey county, granted October 12th, 1835, by José Castro to Juan Miguel Anzar; claim filed February 3d, 1852, confirmed by the Commission January 10th, 1853, by the District Court December 10th, 1856, and appeal dismissed February 21st, 1857; containing 8,659.69 acres.
- 21, 75, N. D., 220. Maria Luisa Greer *et al.*, claimants for Cañada de Raymundo, two and a half by three-quarter leagues, in San Mateo county, granted August 3d, 1840, by Juan B. Alvarado to John Coppinger; claim filed February 3d, 1852, confirmed by the Commission November 29th, 1853, by the District Court January 14th, 1856, and appeal dismissed November 11th, 1856; containing 12,545.01 acres. Patented.
- 22, 258, S. D., 127. Juan Miguel Anzar and Manuel Larios, claimants for Santa Ana, 1 square league, and Quien Sabe, 6 square leagues, in Santa Clara county, granted April 9th, 1839, by Juan B. Alvarado to Manuel Larios and Juan Anzar; claim filed February 6th, 1852, confirmed by the Commission November 7th, 1854, by the District Court December 11th, 1856, and appeal dismissed June 4th, 1857; 48,822.60 acres. Patented.
- 23, 35, N. D., 308. Stephen Smith and Manuela T. Curtis, claimants for Bodega, 8 square leagues, in Sonoma county, granted September 14th, 1844, by Manuel Micheltorena to Stephen Smith; claim filed February 9th, 1852, confirmed by the Commission February 21st, 1853, by the District Court July 5th, 1855, and appeal dismissed April 2d, 1857; containing 35,487.53 acres. Patented.
- 24, 224, N. D., 280. Stephen Smith, claimant for Blucher, 6 square leagues, in Sonoma county, granted October 14th, 1844, by Manuel Micheltorena to Juan Vioget; claim filed February 9th, 1852, confirmed by the Commission October 31st, 1854, by the District Court January 26th, 1857, and appeal dismissed April 2d, 1857; containing 26,759.42 acres. Patented.
- 25, 147, N. D., 19. Daniel and Bernard Murphy and James and Martin Murphy, claimants for San Francisco de Las Llagas, 6 square leagues, in Santa Clara county, granted February 3d, 1834, by José Figueroa to Carlos Castro; claim filed February 9th, 1852, confirmed by the Commission August 22d, 1854, by the District Court October 22d, 1855, and appeal dismissed November 24th, 1856; containing 22,979.66 acres.
- 26, 162, N. D. Dolores Riesgo Armijo *et al.*, heirs of José F. Armijo, claimants for Las Tolenas, 3 square leagues, in Solano county, granted March 10th,

- 1840, by Juan B. Alvarado to José Francisco Armijo; claim filed February 9th, 1852, rejected by the Commission August 8th, 1854, and appeal dismissed November 24th, 1856; containing 13,315.93 acres.
- 27, 18, N. D., 243. José Rafael Gonzalez and Mariana Gonzalez, claimants for San Miguelito de Trinidad, 5 square leagues, in Monterey county, granted July 24th, 1841, by Juan B. Alvarado to José Rafael Gonzalez; claim filed February 9th, 1852, confirmed by the Commission March 1st, 1853, by the District Court September 24th, 1855, and appeal dismissed February 17th, 1857; containing 22,135.89 acres.
- 28, 4, N. D. Pearson B. Reading, claimant for San Buenaventura, 6 square leagues, in Sacramento county, granted December 4th, 1844, by Manuel Micheltorena to P. B. Reading; claim filed February 9th, 1852, confirmed by the Commission December 18th, 1852, by the District Court October 31st, 1853, and by the U. S. Supreme Court in 18 Howard, 1; containing 26,632.09 acres. Patented.
- 29, 391, N. D. Thomas Dorland, claimant for 200 square yards, in San Francisco county, (Mission Dolores) granted by Mariano Castro to Toribio Fanfaran; claim filed February 9th, 1852, rejected by the Commission September 25th, 1855, and for failure of prosecution appeal dismissed March 30th, 1857.
- 30, 5, N. D., 177. Carmen Sibrian de Bernal and José Cornelio Bernal, claimants for Rincon de las Salinas y Potrero Nuevo, 1 square league, in San Francisco county, granted October 10th, 1839, by Manuel Jimeno to José Cornelio de Bernal; claim filed February 9th, 1852, confirmed by the Commission December 18th, 1852, by the District Court August 20th, 1855, and appeal dismissed December 8th, 1856; containing 4,446.40 acres. Patented.
- 31, 177, S. D., 14, 145. Isabel Yorba, claimant for Guadalupe, in Santa Barbara county, granted May 6th, 1846, by Mariano Chico to Isabel Yorba; claim filed February 9th, 1852, rejected by the Commission April 25th, 1854, confirmed by the District Court March 3d, 1856, and appeal dismissed December 8th, 1856; containing 30,593.85 acres.
- 32, 94, N. D., 109. Juan Wilson, claimant for Guileos, 4 square leagues, in Sonoma county, granted November 20th, 1847, by Juan B. Alvarado to John Wilson; claim filed February 10th, 1852, confirmed by the Commission December 27th, 1853, by the District Court March 3d, 1856, and appeal dismissed December 8th, 1856; containing 18,833.86 acres.
- 33, 353, N. D. Enstaquio and José Ramon Valencia, claimants for 200 varas square, Mission Dolores, in San Francisco county, granted July 18th, 1845, by Mariano Castro to Enstaquio and José Ramon Valencia; claim filed February 11th, 1852, and rejected by the Commission July 3d, 1855.

34, 389, N. D. Candelario Valencia, claimant for 50 varas square, Mission Dolores, in San Francisco county, granted November 18th, 1840, by Juan B. Alvarado; claim filed February 11th, 1852, confirmed by the Commission August 14th, 1855, by the District Court December 28th, 1857, and appeal dismissed December 28th, 1857.

Candelario Valencia, claimant for 100 varas square, Mission Dolores, in San Francisco county, granted May 18th, 1841, by Juan B. Alvarado.

35, 57, N. D., 347. Sebastian Nunez, claimant for Orestimba, 6 square leagues, in Tuolumne county, granted February 21st, 1844, by Manuel Micheltorena to Sebastian Nunez; claim filed February 12th, 1852, rejected by the Commission October 25th, 1853, confirmed by the District Court May 4th, 1857, and appeal dismissed September 3d, 1858; containing 26,641.17 acres.

36, 36, N. D., 6. Maximo Martinez, claimant for El Corte de Madera, 2 square leagues, in Santa Clara county, granted May 1st, 1844, by Manuel Micheltorena to Maximo Martinez; claim filed February 12th, 1852, confirmed by the Commission February, 28th, 1853, by the District Court September 10th, 1855, and appeal dismissed April 2d, 1857; containing 13,316.05 acres. Patented.

37, 62, N. D., 315. Juan Perez Pacheco, claimant for San Luis Gonzaga, in Mariposa county, granted December 3d, 1843, by Manuel Micheltorena to Francisco Rivera; claim filed February 12th, 1852, rejected by the Commission October 18th, 1853, confirmed by the District Court April 21st, 1856, and appeal dismissed September 3d, 1858; containing 48,821.43 acres.

38, 103, S. D., 271. José de la Guerra y Noriega, claimant for San José de Gracia or Simi, in Santa Barbara county, granted 1795, by Borica to Patricio Javier y Miguel Pico, and revalidated by J. B. Alvarado April 25th, 1842; claim filed February 12th, 1852, confirmed by the Commission March 14th, 1854, and appeal dismissed December 20th, 1856; containing 92,341.38 acres.

39, 11, S. D. Victor Linares, claimant for 1,000 varas square, in San Luis Obispo county, granted September 18th, 1842, by Juan B. Alvarado to Victor Linares; claim filed February 12th, 1852, confirmed by the Commission March 14th, 1853, by the District Court January 14th, 1857, and appeal dismissed June 3d, 1859; containing 165.76 acres.

40, 14, N. D., 383. Arch. A. Ritchie and Paul S. Forbes, claimants for Callayomi, 3 square leagues, in Sonoma county, granted January 17th, 1845, by Manuel Micheltorena to Robert F. Ridley; claim filed February 12th, 1852, confirmed by the Commission December 22d, 1852, and appeal dismissed December 8th, 1856; containing 8,241.74 acres.

- 41, 14, S. D., 144. Ramona Carrillo de Wilson, claimant for 5 square leagues, granted April 6th, 1837, by Juan B. Alvarado to Ramona Carrillo; claim filed February 12th, 1852, confirmed by the Commission April 11th, 1853, and by the District Court January 8th, 1857.
- 42, 345, N. D. James and Squire Williams, claimants for 1 square league, granted June 12th, 1840, by Juan B. Alvarado to Gil Sanchez; claim filed February 17th, 1852, confirmed by the Commission July 10th, 1855, and appeal dismissed December 24th, 1856.
- 43, 95, N. D., 488. Manuel Torres, claimant for Muniz, 4 square leagues, in Mendocino county, granted December 4th, 1845, by Pio Pico to Manuel Torres; claim filed February 17th, 1852, confirmed by the Commission December 27th, 1853, by the District Court October 17th, 1855, and appeal dismissed May 7th, 1857; containing 17,760.75 acres. Patented.
- 44, 61, N. D., 483. Bartolomé Bojorquez, claimant for Laguna de San Antonio, 6 square leagues, in Marin county, granted November 5th, 1845, by Pio Pico to B. Bojorquez; claim filed February 17th, 1852, confirmed by the Commission October 12th, 1853, by the District Court September 10th, 1855, and appeal dismissed November 24th, 1856; containing 24,903.42 acres.
- 45, 397. Thomas B. Valentine, claimant for Arroyo de San Antonio, 3 square leagues, in Marin county, granted October 8th, 1844, by Manuel Micheltona to Juan Miranda; claim filed February 17th, 1852, and discontinued February 6th, 1855.
46. Thomas Jefferson Smith, claimant for 200 varas, Mission Dolores, in San Francisco county, granted August 20th, 1842, to Domingo Feliz; claim filed February 17th, 1852; included in No. 5.
- 47, 211, S. D. Francisco Perez Pacheco, claimant for San Justo, 4 square leagues, in Monterey county, granted April 15th, 1839, by Juan B. Alvarado to José Castro; claim filed February 17th, 1852, confirmed by the Commission September 26th, 1854, by the District Court June 3d, 1857, and appeal dismissed June 8th, 1857; containing 33,689.99 acres.
- 48, 24, S. D. Francisco Branch, claimant for Santa Manuela, in San Luis Obispo county, granted April 6th, 1837, by Juan B. Alvarado to Francisco Branch; claim filed February 17th, 1852, confirmed by the Commission March 1st, 1853, by the District Court October 16th, 1855, and appeal dismissed February 24th, 1857; containing 16,954.83 acres.
- 49, 32, S. D., 100. Carlos Antonio Carrillo, claimant for Sespé, 6 square leagues, in Santa Barbara county, granted November 9th, 1833, by José Figueroa to C. A. Carrillo; claim filed February 17th, 1852, confirmed by the Commission April 18th, 1853, and by the District Court February 19th, 1856.

- 50, 261, S. D. John Wilson, claimant for Huerta de Romaldo, one-tenth square league, in San Luis Obispo county, granted 1842 by J. B. Alvarado, and July 10th, 1846, by Pio Pico, to Romaldo; claim filed February 17th, 1852, rejected by the Commission December 12th, 1854, and confirmed by the District Court February 9th, 1857.
- 51, 53, S. D., 553. Fernando Tico, claimant for 400 varas, Mission of San Buena-ventura, in Santa Barbara county, granted March 24th, 1845, by Pio Pico to F. Tico; claim filed February 17th, 1852, confirmed by the Commission November 23d, 1853, by the District Court January 7th, 1856, and appeal dismissed February 5th, 1857; containing 28.90 acres.
- 52, 159, N. D. Bernard Murphy, claimant for La Polka, 1 square league, in Santa Clara county, granted January 19th, 1833, by José Figueroa to Ysabel Ortega; claim filed February 17th, 1852, confirmed by the Commission August 15th, 1854, by the District Court January 14th, 1856, and appeal dismissed January 18th, 1856; containing 4,166.78 acres.
- 53, 148, N. D., 361. Domingo Feliz, claimant for Feliz Rancho, 1 square league, in San Mateo county, granted May 1st, 1844, by Manuel Micheltorena to D. Feliz; claim filed February 17th, 1852, confirmed by the Commission January 27th, 1854, by the District Court October 29th, 1855, and appeal dismissed November 18th, 1856; containing 4,448.27 acres.
- 54, 4, S. D., 94. David S. Spence, claimant for Encinal y Buena Esperanza, 2 square leagues, in Monterey county, granted November 29th, 1834, by José Figueroa to D. S. Spence; 1 square league additional, in Monterey county, granted April 15th, 1839, by Juan B. Alvarado; claims filed February 19th, 1852, confirmed by the Commission February 14th, 1853, by the District Court December 19th, 1855, and appeal dismissed February 23d, 1857; containing 13,351.64 acres.
- 55, 370, S. D. Francisco Castillo Negrete, claimant for Quien Sabe, 6 square leagues, in San Joaquin county, granted April 16th, 1836, by Nicolas Gutierrez to F. C. Negrete; claim filed February 20th, 1852, and rejected by the Commission September 11th, 1855.
- 56, 178, S. D., 156. Cruz Cervantez, claimant for San Joaquin or Rosas Morada, 2 square leagues, in Monterey county, granted April 1st, 1836, by Nicolas Gutierrez to C. Cervantes; claim filed February 20th, 1852, confirmed by the Commission December 18th, 1852, by the District Court September 21st, 1855, and judgment affirmed by the U. S. Supreme Court in 18 Howard, 553.
- 57, 74, N. D., 465. Juan Manuel Vaca and Juan Felipe Peña, claimants for

Los Putos, 10 square leagues, in Solano county, granted January 27th, 1843, by Manuel Micheltorena to J. M. Vaca and J. F. Peña; claim filed February 20th, 1852, rejected by the Commission November 15th, 1853, confirmed by the District Court July 5th, 1855, and decree affirmed by the U. S. Supreme Court in 18 Howard, 556; containing 44,383.78 acres. Patented.

58, 161, N. D. José de los Santos Berreyesa, claimant for Seño de Mallacomes or Moristal y Plan de Agua Caliente, 4 square leagues, in Sonoma county, granted October 14th, 1843, by Manuel Micheltorena to J. de los Santos Berreyesa; claim filed February 20th, 1852, confirmed by the Commission June 27th, 1854, by the District Court December 24th, 1856, and appeal dismissed November 24th, 1856; containing 12,540.22 acres.

59, 150, N. D. Lovett P. Rockwell and Thomas P. Knight, claimants for portion of Mallacomes or Moristal, No. 58, 2 square leagues, in Sonoma county, granted October 14th, 1843, by Manuel Micheltorena to José de los Santos Berreyesa; claim filed February 20th, 1852, confirmed by the Commission August 29th, 1854, and appeal dismissed November 24th, 1856; containing 8,328.85 acres.

60, 155, N. D., 128. José Dolores Pacheco, claimant for Santa Rita, in Alameda county, granted April 10th, 1839, by Juan B. Alvarado to J. D. Pacheco; claim filed February 21st, 1852, rejected by the Commission April 25th, 1854, confirmed by the District Court August 13th, 1855, and decree affirmed by the U. S. Supreme Court in 23 Howard, 495; containing 8,885.67 acres.

61, 8, S. D., 290. Rafael Vilavicencio, claimant for San Geronimo, 2 square leagues, in San Luis Obispo county, granted July 24th, 1842, by Juan B. Alvarado to R. Vilavicencio; claim filed February 21st, 1852, confirmed by the Commission February 14th, 1853, and by the District Court October 14th, 1859.

62, 9, N. D., 143. Antonio and Faustin German, claimants for Juristac, 1 square league, in Santa Clara county, granted October 22d, 1835, to A. and F. German; claim filed February 21st, 1852, confirmed by the Commission December 18th, 1852, by the District Court June 7th, 1855, and appeal dismissed April 28th, 1857; containing 4,482.41 acres.

63, 79, S. D., 149. Francisco Perez Pacheco, claimant for 2 square leagues, in Monterey county, granted November 26th, 1833, by José Figueroa to F. P. Pacheco; by another grant, claimant for Ausaymas, 2 square leagues, in Tuolumne county, granted February 6th, 1836, by Nicolas Gutierrez; claims filed February 24th, 1852, confirmed by the Commission July 5th, 1853, and by the District Court October 10th, 1855; containing 35,504.34 acres. Patented.

- 64, 78, S. D. Francisco Perez Pacheco, claimant for San Felipe, 3 square leagues, in Monterey county, granted April 1st, 1836, by Nicolas Gutierrez to F. D. Pacheco; claim filed February 24th, 1852, confirmed by the Commission July 5th, 1853, and by the District Court October 11th, 1855. Surveyed with No. 63 and patented.
- 65, 77, S. D., 212. Francisco Perez Pacheco, claimant for Bolsa de San Felipe, 2 square leagues, in Monterey county, granted October 14th, 1840, by Juan B. Alvarado to F. D. Pacheco; claim filed February 14th, 1852, confirmed by the Commission December 29th, 1852, by the District Court February 19th, 1857, and January 11th, 1861, and appeal dismissed March 4th, 1858.
- 66, 39, S. D., 122. Diego Olivera and Teodoro Arellanes, claimants for Guadalupe, described by boundaries, in San Luis Obispo county, granted March 21st, 1840, by Juan B. Alvarado to D. Olivera and T. Arellanes; claim filed February 24th, 1852, confirmed by the Commission December 6th, 1853, by the District Court September 25th, 1855, and appeal dismissed February 5th, 1857; containing 32,408.03 acres.
- 67, 365, S. D., 523. Maria Antonio de la Guerra and Lataillade, claimants for Cuyama, 5 square leagues, in Santa Barbara county, granted April 24th, 1843, by Manuel Micheltorena to José Maria Rojo; claim filed February 24th, 1852, confirmed by the Commission July 17th, 1855, by the District Court January 20th, 1857, and appeal dismissed March 4th, 1858; containing 22,198.74 acres.
- 68, 223, N. D., 188. Assignee of Bezer Simmons, claimant for Novato, 2 square leagues, in Marin county, granted April 16th, 1839, by Juan B. Alvarado to Fernando Feliz; claim filed February 24th, 1852, confirmed by the Commission November 7th, 1854, and appeal dismissed December 16th, 1856; containing 8,870.62 acres.
- 69, 30, N. D., 484. David Wright, claimant for Roblar de la Misericia, 4 square leagues, in Sonoma county, granted November 21st, 1845, by Pio Pico to Juan Nepomaseno Padillo; claim filed February 24th, 1852, confirmed by the Commission February 14th, 1853, by the District Court September 10th, 1855, and appeal dismissed December 8th, 1856; containing 16,887.45 acres. Patented.
- 70, 411, N. D. Edmund L. Brown *et al.*, claimants for Laguna de Santos Calle, 11 square leagues, in Yolo county, granted December 29th, 1845, by Pio Pico to Victor Prudon and Marcos Baca; claim filed February 24th, 1852, rejected by the Commission January 15th, 1856, and by the District Court September 18th, 1860.
- 71, 10 N. D., 320. Camilo Ynitia, claimant for Olompali, 2 square leagues, in Marin county, granted October 22d, 1843, by Manuel Micheltorena to C.

Ynitia; claim filed February 26th, 1852, confirmed by the Commission December 18th, 1852, by the District Court February 23d, 1857, and appeal dismissed July 31st, 1857; containing 8,877.43 acres.

72, 16, N. D., 346. Timoteo Murphy, claimant for San Pedro, Santa Margarita and Las Gallinas, 5 square leagues, in Mariu county, granted February 14th, 1844, by Manuel Micheltorena to T. Murphy; claim filed February 26th, 1852, confirmed by the Commission December 22d, 1852, and appeal dismissed November 18th, 1856; containing 21,678.69 acres.

73, 202, N. D. Julian and Fernando, sons of Santos, a neophite, claimants for Rincon del Alisal, 600 varas, in Santa Clara county, granted December 28th, 1844, by José Maria del Ray (priest) to Santos and Sons; claim filed February 27th, 1852, rejected by the Commission November 21st, 1854, and for failure of prosecution appeal dismissed by the District Court April 21st, 1856.

74, 421, N. D. Jacob Leese and Salvador Vallejo, claimants for 200 by 100 varas, in city of San Francisco, granted May 21st, 1839, by Juan B. Alvarado to Jacob Leese and S. Vallejo; claim filed February 27th, 1852, confirmed by the Commission February 5th, 1856, and appeal dismissed April 6th, 1857; containing 3.38 acres. Patented.

75, 7, N. D., 364. José Agustin Narvaez, claimant for San Juan Bantista, 2 square leagues, in Monterey county, granted March 30th, 1844, by Manuel Micheltorena to J. A. Narvaez; claim filed February 27th, 1852, rejected by the Commission November 15th, 1853, confirmed by the District Court July 15th, 1855, and appeal dismissed July 5th, 1855; containing 8,877.60 acres.

76, 20, N. D., 64. Salvio Pacheco, claimant for Monte del Diablo, in Contra Costa county, granted March 30th, 1844, by José Figueroa to S. Pacheco; claim filed February 27th, 1852, confirmed by the Commission January 5th, 1853, by the District Court January 14th, 1856, and appeal dismissed November 24th, 1856; containing 17,921.54 acres. Patented.

77, 135, N. D., 129. José Noriega and Roberto Livermore, claimants for Las Positas, 2 square leagues, in Alameda county, granted April 10th, 1839, by Juan B. Alvarado to Salvio Pacheco; claim filed February 27th, 1852, confirmed by the Commission February 14th, 1854, and by the District Court February 18th, 1859.

78, 133, N. D., 125. Fulgencio Higuera, claimant for Agua Caliente, 2 square leagues, in Alameda county, granted October 13th, 1836, by Nicolas Gutierrez, and April 4th, 1839, by Juan B. Alvarado, to F. Higuera; claim filed February 27th, 1852, confirmed by the Commission February 14th, 1854, and appeal dismissed November 24th, 1856; containing 9,563.87 acres. Patented.

- 79, 386, N. D., 431. Robert Livermore, claimant for Cañada de los Vaqueros, in Contra Costa county, granted February 29th, 1844, by Manuel Micheltona to Francisco Alvisi *et al.*; claim filed February 27th, 1852, confirmed by the Commission September 4th, 1853, by the District Court December 28th, 1857, and appeal dismissed December 28th, 1857.
- 80, 210, N. D. Timothy Murphy, in behalf of the San Rafael tribe of Indians, claimant for Tinicasia, 1 square league, in Marin county, granted in 1841, by M. G. Vallejo to San Rafael tribe of Indians; claim filed February 28th, 1852, rejected by the Commission November 21st, 1854, and for failure of prosecution appeal dismissed April 21st, 1856.
- 81, 338, N. D. James R. Bolton, claimant for Mission Dolores, 3 square leagues, in San Francisco county, granted February 10th, 1846, by Pio Pico to José Prudencio Santillan; claim filed March 1st, 1852, confirmed by the Commission January 5th, 1855, *pro forma* by the District Court April 7th, 1857, and decrees reversed by the U. S. Supreme Court and cause remanded, with direction to dismiss the claim, 23 Howard, 341.
- 82, 60, N. D., 318. José de Jesus Vallejo, claimant for Arroyo del Alameda, 4 square leagues, in Alameda county, granted August 30th, 1842, by Juan B. Alvarado to J. de Jesus Vallejo; claim filed March 2d, 1852, confirmed by the Commission October 18th, 1853, by the District Court March 2d, 1857, and appeal dismissed July 28th, 1857; containing 17,705.38 acres. Patented.
- 83, 59, N. D., 216, 318. José de Jesus Vallejo, claimant for Arroyo del Alameda, 1,000 varas square, in Santa Clara county, granted December 30th, 1840, by Manuel Jimeno to J. de Jesus Vallejo; claim filed March 2d, 1852, and rejected by the Commission October 18th, 1853.
- 84, 65, N. D., 167. Domingo Sais, claimant for Cañada de Herrera, one-half square league, in Marin county, granted August 10th, 1839, by Manuel Jimeno to D. Sais; claim filed March 2d, 1852, confirmed by the Commission October 21st, 1853, by the District Court May 25th, 1858, and appeal dismissed May 25th, 1858; containing 6,658.35 acres.
- 85, 35, S. D. José de Jesus Vallejo, claimant for Bolsa de San Cayetano, 2 square leagues, in Monterey county, granted October 25th, 1824, by Arguello, and October 13th, 1834, by José Figueroa, to Ignacio Vallejo; claim filed March 2d, 1852, confirmed by the Commission December 6th, 1853, by the District Court February 1st, 1856, and appeal dismissed January 9th, 1857; containing 8,866.43 acres.
- 86, 48, N. D., 501. Jasper O'Farrell, claimant for Cañada de la Jonive, 2 square leagues, in Sonoma county, granted February 5th, 1845, by Pio Pico to

James Black; claim filed March 2d, 1852, confirmed by the Commission April 18th, 1853, by the District Court July 16th, 1855, and appeal dismissed December 22d, 1856; containing 10,786.51 acres. Patented.

87, 196, S. D., 282, 506. Francis Branch, claimant for Huerhuero or Huerfano, 1 square league, in San Luis Obispo county, granted May 9th, 1842, by Juan B. Alvarado, and March 28th, 1846, by Pio Pico, to Mariano Bonilla; claim filed March 2d, 1852, confirmed by the Commission September 12th, 1854, by the District Court December 31st, 1855, and appeal dismissed February 24th, 1857; containing 15,684.95 acres.

88, 64, S. D., 451. Antonio Maria Villa, claimant for Tequepis, 2 square leagues, in Santa Barbara county, granted May 24th, 1845, by Pio Pico to Joaquin Villa; claim filed March 2d, 1852, rejected by the Commission November 13th, 1853, confirmed by the District Court January 14th, 1856, and appeal dismissed February 5th, 1857; containing 8,919 acres.

89, 166, N. D., 550. James G. Morehead, claimant for Carmel, 10 square leagues, granted May 4th, 1846, by Pio Pico to William Knight; claim filed March 2d, 1852, rejected by the Commission February 21st, 1854, confirmed by the District Court September 29th, 1859, and appeal dismissed October 26th, 1859.

90, 84, N. D., 265. Martin Murphy, claimant for Pastoria de las Borregas, 3,207 $\frac{1}{4}$ acres, in Santa Clara county, granted January 15th, 1842, by Juan B. Alvarado to Francisco Estrada; claim filed March 3d, 1852, confirmed by the Commission January 24th, 1854, by the District Court October 17th, 1856, and appeal dismissed November 18th, 1856; containing 4,894.35 acres.

91, 397, N. D. William Johnson, claimant for Johnson's Rancho, 5 square leagues, in Yuba county, granted December 22d, 1844, by Manuel Micheltorena and J. A. Sutter to Pablo Gutierrez; claim filed March 3d, 1852, confirmed by the Commission August 7th, 1855, and appeal dismissed November 18th, 1856; containing 22,197.31 acres. Patented.

92, 319, N. D., 250. John A. Sutter, claimant for New Helvetia, 11 square leagues, and a surplus of 22 square leagues, in Yuba and Sutter counties, granted June 18th, 1841, by Juan B. Alvarado, and February 25th, 1845, by Manuel Micheltorena, to J. A. Sutter; claim filed March 8th, 1852, confirmed by the Commission May 15th, 1855, by the District Court January 14th, 1857, grant of June 18th, 1841, confirmed by the U. S. Supreme Court, and that of February 5th, 1845, rejected, 21 Howard, 170; containing 48,827.90 acres.

93, 213, N. D., 92. Antonio Chaboya, claimant for Yerba Buena or Socayre, in Santa Clara county, granted November 5th, 1833, by José Figueroa to A.

Chaboya; claim filed March 8th, 1852, confirmed by the Commission October 17th, 1854, by the District Court January 21st, 1858, and appeal dismissed October 8th, 1858; containing 24,342.64 acres. Patented.

94, 262, N. D., 552. Abel Stearns, claimant for 600 varas square, in San Francisco county, granted May 6th, 1846, by Pio Pico to José Andrada; claim filed March 9th, 1852, and rejected by the Commission January 25th, 1855.

95, 379, N. D.; 19 S. D., (transcript sent to N. D.) 29. Bernard Murphy, claimant for Ojo de Agua de la Coché, 2 square leagues, in Santa Clara county, granted August 4th, 1835, by José Figueroa to Juan Maria Hernandez; claim filed March 9th, 1852, confirmed by the Commission February 21st, 1853, by the District Court January 18th, 1856, and appeal dismissed November 18th, 1856; containing 8,927.10 acres.

96, 403, N. D. Juan José Castro, claimant for El Sobrante, 11 square leagues, in Alameda county, granted April 23d, 1841, by Juan B. Alvarado to J. J. Castro; claim filed March 9th, 1852, confirmed by the Commission July 3d, 1855, and appeal dismissed April 6th, 1857.

97, 101, N. D., 20. José de la Cruz Sanchez *et al.*, claimant for Buri-Buri, in San Mateo county, granted September 18th, 1835, by José Castro to José Sanchez; claim filed March 9th, 1852, confirmed by the Commission January 31st, 1854, by the District Court October 16th, 1855, and appeal dismissed May 11th, 1858; containing 15,739.14 acres.

98, 71, S. D., 342. Ellen E. White, claimant for Cholam, 6 square leagues, in San Luis Obispo county, granted February 7th, 1844, by Manuel Micheltorena to Mauricio Gonzalez; claim filed March 12th, 1852, rejected by the Commission January 17th, 1854, confirmed by the District Court March 4th, 1858, and appeal dismissed December 31st, 1860; containing 26,627.16 acres.

99, 375, S. D. Ellen E. White and John Carney, claimants for San Justo el Viejo and San Bernabé, 6 square leagues, in Monterey county, granted February 18th, 1836, by Nicolas Gutierrez to Rafael Gonzalez; claim filed March 12th, 1852, rejected by the Commission August 28th, 1855, and for failure of prosecution appeal dismissed December 22d, 1856.

100, 219, N. D. Francisco Rufino, claimant for preëmption claim, 50 by 180 feet, Missiou Dolores, in San Francisco county; claim filed March 13th, 1852, rejected by the Commission November 21st, 1854, and for failure of prosecution appeal dismissed April 21st, 1856.

101, 381, N. D., 360. Josefa de Haro *et al.*, claimants for Potrero de San Francisco, one-half square league, in San Francisco county, granted April 30th,

1844, and May 1st, 1844, by Manuel Micheltorena to Ramon Francisco de Haro; claim filed March 16th, 1852, and confirmed by the Commission November 6th, 1855.

102, 380, N. D., 10. *José de Haro et al.*, claimants for Laguna de la Merced, 1 by one-half league, in San Mateo county, granted September 27th, 1835, by José Castro to José Antonio Galindo; claim filed March 16th, 1852, confirmed by the Commission July 24th, 1855, by the District Court January 13th, 1858, and appeal dismissed March 19th, 1858; containing 2,220.16 acres.

103, 408, N. D. Guillermo Antonio Richardson, claimant for 10 by 2 leagues, in Mendocino county, granted October 30th, 1844, by Manuel Micheltorena to José Antonio Galindo; claim filed March 16th, 1852, and confirmed by the Commission November 6th, 1855.

104, 83, N. D., 111. Guillermo Antonio Richardson, claimant for Saucelito, 3 square leagues, in Marin county, granted February 11th, 1835, by Juan B. Alvarado to José Antonio Galindo; claim filed March 16th, 1852, confirmed by the Commission December 27th, 1853, by the District Court February 11th, 1856, and appeal dismissed September 2d, 1857; containing 19,571.92 acres.

105, 281, N. D. Timoteo Murphy, claimant for 100 by 30 varas, in Marin county, granted December 16th, 1844, by Manuel Micheltorena to T. Murphy; claim filed March 16th, 1852, and rejected by the Commission August 22d, 1854, and March 27th, 1855.

106, 91, N. D., 405. Alberto J. Toomes, claimant for El Rio de los Molinos, 5 square leagues, in Tehama county, granted December 20th, 1844, by Manuel Micheltorena to A. J. Toomes; claim filed March 18th, 1852, confirmed by the Commission January 17th, 1854, by the District Court March 3d, 1856, and appeal dismissed November 6th, 1856; containing 22,172.46 acres. Patented.

107, 85, N. D., 404. Robert H. Thomes, claimant for Los Sancos, 5 square leagues, in Tehama county, granted December 20th, 1844, by Manuel Micheltorena to R. H. Thomes; claim filed March 18th, 1852, confirmed by the Commission January 17th, 1854, by the District Court February 4th, 1856, and appeal dismissed November 6th, 1856; containing 22,212.21 acres.

108, 323, N. D. Jacob D. Hoppe, claimant for Ulistae, one-half square league, in Santa Clara county, granted May 19th, 1845, by Pio Pico to Marcelo Pio and Cristoval; claim filed March 19th, 1852, confirmed by the Commission May 8th, 1855, by the District Court March 2d, 1857, and appeal dismissed April 16th, 1857; containing 2,401.32 acres.

- 109, 377, N. D. Dionisio Z. Fernandez *et al.*, claimants for 4 square leagues, in Butte county, granted June 12th, 1846, by Pio Pico to Dionisio and Maximo Fernandez; claim filed March 19th, 1852, confirmed by the Commission July 17th, 1855, by the District Court March 2d, 1857, and appeal dismissed March 9th, 1857; containing 17,805.84 acres.
- 110, 407, N. D. Andres Pico *et al.*, claimants for Mission San José, 30,000 acres, in Alameda county, granted May 5th, 1846, by Pio Pico to Andres Pico and Juan B. Alvarado; claim filed March 22d, 1852, confirmed by the Commission December 18th, 1855, and rejected by the District Court June 30th, 1859.
- 111, 310, S. D., 442. James B. Huie, claimant for Sisquoc, in Santa Barbara county, granted June 3d, 1833, by Pio Pico to Maria Antonio Caballero; claim filed March 22d, 1852, confirmed by the Commission April 24th, 1855, and appeal dismissed February 21st, 1857; containing 35,485.90 acres.
- 112, 216, N. D.; 197, S. D., (transcript sent to N. D.) Quintin Ortega *et al.*, claimants for San Isidro, 1 square league, in Santa Clara county, granted June 3d, 1833, by José Figueroa to Quintin Ortega *et al.*; claim filed March 23d, 1852, confirmed by the Commission September 19th, 1854, and by the District Court June 3d, 1856; containing 4,438.70 acres.
- 113, 96, N. D. Rafael Garcia, claimant for 9 square leagues, in Mendocino county, granted November 15th, 1844, by Manuel Micheltorena to Rafael Garcia; claim filed March 23d, 1852, rejected by the Commission January 17th, 1854, confirmed by the District Court, decree reversed, petition dismissed by the U. S. Supreme Court, and cause remanded for that purpose in 22 Howard, 274.
- 114, 68, N. D., 124. Rafael Garcia, claimant for Tomales and Bauliuas, 2 square leagues, in Marin county, granted March 19th, 1836, by Nicolas Gutierrez to Rafael Garcia; claim filed March 23d, 1852, confirmed by the Commission November 22d, 1853, and appeal dismissed October 19th, 1858; containing 8,863.25 acres.
- 115, 233, S. D., 319. José Antonio Estudillo, claimant for San Jacinto, 4 square leagues, in San Diego county, granted December 21st, 1842, by Manuel Jimeno to J. A. Estudillo; claim filed March 23d, 1852, confirmed by the Commission November 21st, 1854, and by the District Court March 5th, 1858.
- 116, 80, S. D., 512. José Antonio Aguirre, in right of his wife, claimant for So-brante of Jacinto Viejo y Nuevo, 5 square leagues, in San Diego county, granted May 9th, 1846, by Pio Pico to Maria del Rosario Estudillo de

Aguirre; claim filed March 23d, 1852, rejected by the Commission January 17th, 1854, and confirmed by the District Court December 24th, 1855.

- 117, 56, S. D., 313. Manuela Carrillo de Jones, claimant for Santa Rosa Island, described by boundaries, in Santa Barbara county, granted October 4th, 1843, by Manuel Micheltorena to José Antonio and Carlos Carrillo; claim filed March 23d, 1852, rejected by the Commission November 15th, 1853, confirmed by the District Court January 18th, 1856, and appeal dismissed February 5th, 1857.
- 118, 81, S. D., 304. Joaquina Alvarado, claimant for Cañada Larga à Verde, one-half square league, in Santa Barbara county, granted June 30th, 1841, by Juan B. Alvarado to J. Alvarado; claim filed March 23d, 1852, rejected by the Commission December 20th, 1853, and confirmed by the District Court January 20th, 1857.
- 119, 130, N. D. Juana Briones, claimant for La Purísima Concepción, 1 square league, in Santa Clara county, granted June 30th, 1840, by Juan B. Alvarado to José Gorgonio and José Ramon; claim filed March 23d, 1852, confirmed by the Commission April 11th, 1854, by the District Court April 17th, 1856, and appeal dismissed December 24th, 1856; containing 4,436.74 acres.
- 120, 104, S. D., 569. Maria Antonia de la Guerra y Lataillade, claimant for Cuyama, 11 square leagues, in Santa Barbara county, granted June 9th, 1846, by Pio Pico to Cesario Lataillade; claim filed March 23d, 1852, and rejected by the Commission February 28th, 1854.
- 121, 188, S. D., 410. Luis Arellanes and Emilio Miguel Ortega, claimants for La Punta de la Laguna, 6 square leagues, in San Luis Obispo county, granted December 26th, 1844, by Manuel Micheltorena to L. Arellanes and E. M. Ortega; claim filed March 23d, 1852, confirmed by the Commission May 2d, 1854, by the District Court January 7th, 1856, and appeal dismissed February 5th, 1857; containing 26,648.42 acres.
- 122, 12, N. D., 414. Francisco Dye, claimant for El Primer Cañon or Rio de los Berendos, 6 square leagues, in Tehama county, granted May 22d, 1844, by Manuel Micheltorena to F. Dye; claim filed March 23d, 1852, confirmed by the Commission December 18th, 1852, by the District Court July 23d, 1855, and appeal dismissed February 10th, 1857; containing 26,637.11 acres.
- 123, 41, S. D., 192. Vicente Cané, claimant for San Bernardo, 1 square league, in San Luis Obispo county, granted February 11th, 1840, by Juan B. Alvarado to Vicente Cané; claim filed March 23d, 1852, confirmed by the Commission November 22d, 1853, by the District Court September 25th, 1855, and appeal dismissed February 5th, 1856; containing 4,379.42 acres.

- 124, 1, S. D., 34. John B. R. Cooper, claimant for El Sur, 2 square leagues, in Monterey county, granted September 30th, 1834, by José Figueroa to Juan B. Alvarado; claim filed March 23d, 1852, confirmed by the Commission December 18th, 1852, by the District Court September 21st, 1855, and appeal dismissed February 5th, 1857; containing 8,949.06 acres.
- 125, 410, N. D., 422. Robert Walkinshaw, claimant for Posolomi, including El Posito de las Animas, 3,042 acres, in Santa Clara county, granted February 15th, 1844, by Juan B. Alvarado and Manuel Micheltorena to Lope Inigo; claim filed March 23d, 1852, confirmed by the Commission November 20th, 1855, and appeal dismissed February 16th, 1857; containing 3,391.90 acres.
- 126, 45, N. D., 262. Cayetano Juarez, claimant for Tulucay, 2 square leagues, in Napa county, granted October 26th, 1841, by Manuel Jimeno to C. Juarez; claim filed March 23d, 1852, confirmed by the Commission April 11th, 1853, by the District Court February 25th, 1856, and appeal dismissed February 23d, 1857; containing 8,865.33 acres. Patented.
- 127, 87, N. D., 344. Joseph Swanson, Administrator of the Estate of William Welch, claimant for Las Juntas, 3 square leagues, in Contra Costa county, granted February 9th, 1844, by Manuel Micheltorena to William Welch; claim filed March 23d, 1852, confirmed by the Commission December 20th, 1853, and appeal dismissed November 3d, 1857; containing 13,324.29 acres.
- 128, 144, N. D., 80. José María Amador, claimant for San Ramon, 4 square leagues and 1,800 varas, in Alameda county, granted August 17th, 1835, by José Figueroa to J. M. Amador; claim filed March 23d, 1852, confirmed by the Commission August 1st, 1854, by the District Court January 14th, 1856, and appeal dismissed January 10th, 1857; containing 16,516.95 acres.
- ✓ 129, 358, N. D. Thomas O. Larkin, claimant for Flugge Ranch or Boga, 5 square leagues, in Butte and Sutter counties, granted February 21st, 1844, by Manuel Micheltorena to Charles William Flugge; claim filed March 24th, 1852, confirmed by the Commission July 17th, 1854, and appeal dismissed February 9th, 1857; containing 22,150.71 acres.
- 130, 115, N. D., 417. Francis Larkin *et al.*, claimants for Larkin's Rancho, 10 square leagues, in Colusi county, granted December 15th, 1844, by Manuel Micheltorena to F. Larkin *et al.*; claim filed March 24th, 1852, confirmed by the Commission April 25th, 1854, by the District Court January 14th, 1856, and appeal dismissed February 10th, 1857; containing 44,364.22 acres. Patented.
- ✕ 131, 23, N. D., 413. Thomas O. Larkin *et al.*, claimants for Jimeno Rancho, 11 square leagues, in Colusi and Yuba counties, granted November 4th, 1844, by Manuel Micheltorena to Manuel Jimeno; claim filed March 24th, 1852,

confirmed by the Commission January 10th, 1853, by the District Court July 5th, 1855, and by the U. S. Supreme Court in 18 Howard, 557; containing 48,854.26 acres.

- 132, 105, S. D., 291. Vicente Sanchez *et al.*, heirs of José Maria Sanchez, claimants for Lomerias Muertas, $1\frac{1}{2}$ square leagues, in Monterey county, granted August 16th, 1842, by Juan B. Alvarado to José Antonio Castro; claim filed March 30th, 1852, confirmed by the Commission March 14th, 1854, by the District Court February 1st, 1856, and appeal dismissed February 24th, 1857; containing 6,651.91 acres.
- 133, 106, S. D., 49. José Maria Sanchez, claimant for Llano del Tequisquita, one-half square league, in Monterey county, granted October 12th, 1835, by José Castro to J. M. Sanchez; claim filed March 30th, 1852, confirmed by the Commission March 14th, 1854, by the District Court February 1st, 1856, and appeal dismissed February 24th, 1857; containing 16,016.30 acres.
- 134, 92, N. D. M. G. Vallejo, claimant for lot 150 by 150 varas, in Sonoma city, granted July 5th, 1835, by José Figueroa to M. G. Vallejo; claim filed March 30th, 1852, confirmed by the Commission January 17th, 1854, by the District Court February 18th, 1856, and appeal dismissed February 23d, 1857; containing 3.81 acres.
- 135, 107, S. D., 139. José de la Guerra y Noriega, claimant for Conejo, described by boundaries, in Santa Barbara county, granted October 12th, 1822, by Pablo V. de Sola to José de la G. y Noriega; claim filed March 30th, 1852, confirmed by the Commission March 14th, 1854, by the District Court February 16th, 1857, and appeal dismissed February 21st, 1859; containing 48,671.56 acres.
- 136, 41, N. D., 172. Jasper O'Farrell, claimant for Estero Americano, 2 square leagues, in Sonoma county, granted September 4th, 1839, by Manuel Jimeno to Ed. Manuel McIntosh; claim filed March 30th, 1852, confirmed by the Commission April 11th, 1853, and appeal dismissed February 2d, 1857; containing 8,849.13 acres. Patented.
- 137, 26, S. D., 251. Guadalupe Cantua, claimant for San Luisito, described by boundaries, in San Luis Obispo county, granted August 6th, 1841, by Juan B. Alvarado to G. Cantua; claim filed March 30th, 1852, confirmed by the Commission October 25th, 1853, by the District Court September 25th, 1855, and appeal dismissed February 5th, 1856; containing 4,389.13 acres. Patented.
- 138, 7, S. D. John B. R. Cooper, claimant for Bolsas del Potrero y Moro Cojo or La Sagrada Familia, 2 square leagues, in Monterey county, granted June

- 22d, 1822, by P. V. de Sola to José Joaquin de la Torre; claim filed March 30th, 1852, confirmed by the Commission February 21st, 1853, by the District Court January 10th, 1856, and appeal dismissed February 5th, 1857; containing 6,915.77 acres. Patented.
- 139, 168, S. D., 142. Fernando Tico, claimant for Ojay, described by boundaries, in Santa Barbara county, granted April 6th, 1837, by Juan B. Alvarado to F. Tico; claim filed March 30th, 1852, confirmed by the Commission May 16th, 1854, by the District Court October 2d, 1855, and appeal dismissed February 5th, 1857; containing 17,792.70 acres.
- 140, 73, S. D., 218. Julian Estrada, claimant for Santa Rosa, 3 square leagues, in San Luis Obispo county, granted June 18th, 1841, by Juan B. Alvarado to J. Estrada; claim filed March 30th, 1852, confirmed by the Commission January 17th, 1854, by the District Court September 26th, 1855, and appeal dismissed February 5th, 1857; containing 13,183.62 acres.
- 141, 37, N. D. José Maria Alviso, claimant for Milpitas, 1 square league, in Santa Clara county, granted September 23d, 1835, by José Castro to J. M. Alviso; claim filed March 30th, 1852, confirmed by the Commission March 14th, 1853, by the District Court March 3d, 1856, and appeal dismissed December 5th, 1856; containing 4,807 acres.
- 142, 237, N. D. Robert S. Eaton, claimant for part of Cañada de Guadalupe Visitacion y Rodeo Viejo, 700 acres of 2 square leagues, in San Francisco and San Mateo counties, (No. 745) granted July 31st, 1841, by Juan B. Alvarado to Jacob P. Leese; claim filed March 30th, 1852, confirmed by the Commission December 19th, 1854, by the District Court October 18th, 1858, and appeal dismissed October 18th, 1858; containing 766.35 acres.
- 143, 38, N. D., 392. John Bidwell, claimant for Arroyo Chico, described by boundaries, in Butte county, granted November 18th, 1844, by Manuel Micheltorena to William Dickey; claim filed March 30th, 1852, confirmed by the Commission March 14th, 1853, by the District Court July 16th, 1855, and by the U. S. Supreme Court; containing 22,214.47 acres. Patented.
- 144, 28, N. D., 473. Charles D. Semple, claimant for Rancho de Colus, 2 square leagues, in Colusa county, granted October 4th, 1845, by Pio Pico to John Bidwell; claim filed March 31st, 1852, rejected by the Commission October 25th, 1853, confirmed by the District Court July 5th, 1855, and by the U. S. Supreme Court; containing 8,876.02 acres.
- 145, 5, S. D., 70. 88. Concepcion Munras *et al.*, heirs of Stephen Munras, claimants for San Vicente, 2 square leagues, in Monterey county, granted December 16th, 1835, by José Castro, September 20th, 1836, by Nicolas Gutierrez, and $2\frac{1}{2}$ square leagues November 11th, 1842, by Juan B. Alva-

rado, to Francisco Soto and Stephen Munras ; claim filed April 1st, 1852, confirmed by the Commission February 14th, 1853, by the District Court February 20th, 1856, and appeal dismissed February 24th, 1859 ; containing 19,979.01 acres.

- 146, 53, N. D., 403. Samuel Norris, claimant for Rancho del Paso, 10 square leagues, in Sacramento and Placer counties, granted December 20th, 1844, by Mannel Micheltorena to Eliab Grimes ; claim filed April 1st, 1852, confirmed by the Commission April 18th, 1853, by the District Court August 13th, 1855, and appeal dismissed December 22d, 1856 ; containing 44,371.42 acres.
- 147, 301, N. D. Charles Covilland *et al.*, Administrators of the Estate of John Thompson *et al.*, claimants for Honeut, 7 square leagues, in Yuba county, granted December 22d, 1844, by Manuel Micheltorena and J. A. Sutter to Teodoro Cordua ; claim filed April 1st, 1852, confirmed by the Commission March 27th, 1855, by the District Court February 23d, 1857, and appeal dismissed August 21st, 1857 ; containing 31,069.33 acres.
- 148, 228, N. D. Antonia Higuera *et al.*, heirs of José Higuera, claimants for Los Tularcitos, described by boundaries, in Santa Clara and Alameda counties, granted October 4th, 1821, by P. V. de Sola to José Higuera ; claim filed April 1st, 1852, confirmed by the Commission November 28th, 1854, and appeal dismissed December 12th, 1856 ; containing 4,394.35 acres.
- 149, 203, N. D. Antonia Higuera *et al.*, claimants for Llano del Abrevadero, described by boundaries, in Santa Clara county, granted January 1st, 1822, by P. V. de Sola to José Higuera ; claim filed April 1st, 1852, rejected by the Commission December 19th, 1854, and appeal dismissed for failure of prosecution April 21st, 1856.
- 150, 25, N. D., 418. Guillermo Chard, claimant for Rancho de las Flores, 3 square leagues, in Tehama county, granted December 24th, 1844, by Manuel Micheltorena to G. Chard ; claim filed April 2d, 1852, confirmed by the Commission February 7th, 1853, by the District Court July 16th, 1855, and appeal dismissed January 13th, 1857 ; containing 13,315.58 acres. Patented.
- 151, 108, S. D., 169. Mariano Malarin, Executor of the Estate of Juan Malarin, claimant for Zanjones, 1½ square leagues, in Monterey county, granted August 20th, 1839, by Manuel Jimeno to Gabriel de la Torre ; claim filed April 2d, 1852, confirmed by the Commission February 21st, 1854, by the District Court January 11th, 1856, and appeal dismissed February 5th, 1857 ; containing 6,714.49 acres.
- 152, 109, S. D., 21. Mariano Malarin, Executor of the Estate of Juan Malarin,

- claimant for Guadalupe Llanito de los Correos, 2 square leagues, in Monterey county, granted May 22d, 1833, by José Figueroa to Juan Malarin; claim filed April 2d, 1852, confirmed by the Commission February 21st, 1854, by the District Court January 11th, 1856, and appeal dismissed February 5th, 1857; containing 8,858.44 acres.
- 153, 204, S. D. Mariano Malarin, attorney for José Santiago Estrada and brothers, claimants for Buenavista, 2 square leagues, in Monterey county, granted May 28th, 1822, by L. A. Arguello to José Santiago Estrada and brothers; claim filed April 2d, 1852, confirmed by the Commission September 26th, 1854, and appeal dismissed January 14th, 1857; containing 7,725.56 acres.
- 154, 110, S. D., 46, 176. Mariano Malariu, Executor of the Estate of Juan Malarin, claimant for Chualar, 2 square leagues, in Monterey county, granted September 7th, 1839, by Manuel Jimeno to Juan Malarin; claim filed April 2d, 1852, confirmed by the Commission February 21st, 1854, by the District Court January 11th, 1856, and appeal dismissed February 5th, 1857; containing 8,889.68 acres.
- 155, 16, S. D., 77. Catalina Manzaneli de Munras, claimant for Laguna Seca, 1 league by $1\frac{1}{2}$, in Monterey county, granted June 22d, 1834, by José Figueroa to C. M. de Munras; claim filed April 2d, 1852, confirmed by the Commission April 11th, 1853, by the District Court February 20th, 1856, and appeal dismissed February 24th, 1857; containing 2,179.50 acres.
- 156, 56, N. D., 421. William H. McKee, claimant for Jacinto, 8 square leagues, in Colusi county, granted September 2d, 1844, by Manuel Micheltorena to Jacinto Rodriguez; claim filed April 2d, 1852, rejected by the Commission October 18th, 1853, confirmed by the District Court January 15th, 1857, and appeal dismissed August 5th, 1857; containing 35,487.52 acres. Patented.
- 157, 42, N. D., 412. Josefa Soto, claimant for Capay, 10 square leagues, in Colusi and Tehama counties, granted December 21st, 1844, by Manuel Micheltorena to Josefa Soto; claim filed April 5th, 1852, confirmed by the Commission April 11th, 1853, by the District Court July 16th, 1855, and appeal dismissed November 25th, 1855; containing 44,388.17 acres. Patented.
- 158, 351, N. D. Alpheus Basilio Thompson, claimant for 8 square leagues, in San Joaquín and Stanislaus counties, granted June 1st, 1846, by Pio Pico to A. B. Thompson; claim filed April 5th, 1852, confirmed by the Commission June 19th, 1855, by the District Court September 12th, 1856, and appeal dismissed December 24th, 1856; containing 35,532.80 acres. Patented.
- 159, 51, N. D. Henrique Huber, claimant for Honcut, 8 square leagues, in Butte county, granted February 11th, 1845, by Manuel Micheltorena to E. Huber;

- claim filed April 5th, 1852, and rejected by the Commission October 12th, 1853.
- 160, 34, N. D., 310. George C. Yount, claimant for La Jota, 1 square league, in Napa county, granted October 23d, 1843, by Manuel Micheltorena to G. C. Yount; claim filed April 5th, 1852, rejected by the Commission October 21st, 1853, confirmed by the District Court July 6th, 1854, and appeal dismissed April 2d, 1857; containing 4,453.84 acres. Patented.
- 161, 136, N. D. José Maria Sanchez, claimant for Las Animas or Sitio de la Brea, in Santa Clara county, granted August 17th, 1802, by Marquinas to Mariano Castro, and August 7th, 1835, by José Figueroa to Josefa Romero, widow of M. Castro; claim filed April 5th, 1852, confirmed by the Commission February 14th, 1854, by the District Court May 17th, 1856, and appeal dismissed January 26th, 1857; containing 24,066.24 acres.
- 162, 75, S. D., 273. Francisco Branch, claimant for Arroyo Grande or San Ramon, described by boundaries, in San Luis Obispo county, granted April 25th, 1841, by Juan B. Alvarado to Zeferino Carlon; claim filed April 6th, 1852, confirmed by the Commission January 17th, 1854, by the District Court October 20th, 1855, and appeal dismissed February 24th, 1857; containing 4,437.58 acres.
- 163, 59, S. D., 152. Teodoro Arellanes, claimant for El Rineon, 1 square league, in Santa Barbara county, granted June 22d, 1835, by José Figueroa to T. Arellanes; claim filed April 6th, 1852, rejected by the Commission November 22d, 1853, confirmed by the District Court October 18th, 1855, and appeal dismissed February 24th, 1857; containing 4,459.63 acres.
- 164, 49, N. D., 180. Josefa Haro de Guerrero *et al.*, heirs of Francisco Guerrero Palomares, claimants for El Corral de Tierra, 1 square league, in San Francisco county, granted October 16th, 1839, by Manuel Jimeno, and May 1st, 1844, by Manuel Micheltorena, to F. G. Palomares; claim filed April 6th, 1852, confirmed by the Commission April 18th, 1853, by the District Court March 24th, 1856, and appeal dismissed December 24th, 1856; containing 7,766.35 acres.
- 165, 50, N. D., 246, 430. Jacob P. Leese, claimant for Huichicha, 2 square leagues, in Sonoma county, granted October 26th, 1841, by Manuel Jimeno, and July 6th, 1844, by Manuel Micheltorena, to J. P. Leese; claim filed April 6th, 1852, confirmed by the Commission April 18th, 1853, by the District Court April 22d, 1856, and appeal dismissed December 24th, 1856; containing 18,704.04 acres. Patented.
- 166, 47, N. D., 225. Marico Ygnacio del Bale *et al.*, widow and heirs of Ed. A. Bale, claimants for Carne Humana, 4 square leagues, in Napa county,

granted March 14th, 1841, by Juan B. Alvarado to Edouardo A. Bale; claim filed April 6th, 1852, confirmed by the Commission April 18th, 1853, by the District Court March 24th, 1856, and appeal dismissed December 24th, 1856.

167, 289, N. D., 210, 354. Antonio Suñol *et al.*, claimants for part of Los Coches, one-half square league, in Santa Clara county, granted March 12th, 1844, by Manuel Micheltorena to Roberto; claim filed April 6th, 1852, confirmed by the Commission March 20th, 1855, by the District Court April 1st, 1856, and appeal dismissed December 24th, 1856; containing 2,219.34 acres. Patented.

168, 46, N. D., 36. Heirs of Juan Sanchez de Pacheco, claimants for Arroyo de las Nueces y Bolbones, 2 square leagues, in Contra Costa county, granted July 11th, 1834, by José Figueroa to J. S. de Pacheco; claim filed April 6th, 1852, confirmed by the Commission April 11th, 1853, by the District Court December 22d, 1856, decision of the U. S. Supreme Court as to the right of appeal in 20 Howard, 261, and decree of the District Court affirmed by the U. S. Supreme Court in 22 Howard, 225; containing 17,734.52 acres.

169, 111, S. D. James Stokes, claimant for Rancho de las Vergeles, formerly called Rancho de la Cañada de Enmedio and Cañada de Cebada, 2 square leagues, in Monterey county, granted August 28th, 1835, by José Figueroa, and September 4th, 1835, by José Castro, to José Joaquín Gómez; claim filed April 7th, 1852, rejected by the Commission February 21st, 1854, confirmed by the District Court September 28th, 1855, and appeal dismissed February 24th, 1857; containing 8,759.82 acres.

170, 359, S. D., 15. Henry D. McCobb, claimant for Corral de Tierra, described by boundaries, in Monterey county, granted April 15th, 1836, by Nicolás Gutiérrez to Guadalupe Figueroa; claim filed April 7th, 1852, confirmed by the Commission July 3d, 1855, and by the District Court June 17th, 1859.

171, 200, N. D. John Frederick Schultess, claimant for 37 50-vara lots, Mission Dolores, in San Francisco county, granted February 10th, 1846, by Pío Pico to Prudencio Santillan; claim filed April 8th, 1852, rejected by the Commission December 19th, 1854, and appeal dismissed for failure of prosecution April 21st, 1856.

172, 201, N. D. John Frederick Schultess *et al.*, claimants for 47 50-vara lots, Mission Dolores, in San Francisco county; claim filed April 8th, 1852, rejected by the Commission December 19th, 1854, and appeal dismissed for failure of prosecution April 21st, 1856.

- 173, 182, N. D., 328, 423. Catherine Sheldon, Administratrix, and Gabriel W. Gunn, Administrator of the Estate of Jared Sheldon, claimant for Omochumne, 5 square leagues, in Sacramento county, granted January 8th, 1844, by Manuel Micheltorena to Joaquin Sheldon; claim filed April 10th, 1852, confirmed by the Commission October 10th, 1854, by the District Court December 3d, 1856, and appeal dismissed August 6th, 1857.
- 174, 175, S. D., 367. José Amesti, claimant for Los Corralitos, 4 square leagues, in Santa Cruz county, granted April 1st, 1844, by Manuel Micheltorena to José Amesti; claim filed April 13th, 1852, confirmed by the Commission May 2d, 1854, and appeal dismissed January 28th, 1857; containing 15,440.02 acres. Patented.
- 175, 347, S. D. Santiago Arguello, claimant for Mission San Diego, in San Diego county, granted June 8th, 1846, by Pio Pico; claim filed April 13th, 1852, confirmed by the Commission June 26th, 1855, and by the District Court June, 1858.
- 176, 340, S. D., 187. Andres Castellero, claimant for Island of Santa Cruz, described by boundaries, in Santa Barbara county, granted May 22d, 1839, by Juan B. Alvarado to Andres Castellero; claim filed April 13th, 1852, confirmed by the Commission July 3d, 1855, by the District Court January 14th, 1857, and decree affirmed by the U. S. Supreme Court in 23 Howard, 464.
- 177, 72, S. D., 406. José Mariano Bonilla, claimant for 100 varas by 50, in San Luis Obispo county, granted September 30th, 1844, by Manuel Micheltorena to J. M. Bonilla; claim filed April 13th, 1852, confirmed by the Commission January 24th, 1854, by the District Court September 27th, 1855, and appeal dismissed February 5th, 1857.
- 178, 61, S. D., 481. Joaquin Carrillo and José Antonio Carrillo, claimants for Mission Vieja de la Purisima, 1 square league, in Santa Barbara county, granted November 20th, 1845, by Pio Pico; claim filed April 13th, 1852, confirmed by the Commission November 15th, 1853, and appeal dismissed June 8th, 1857; containing 4,443.43 acres.
- 179, 73, N. D. Rafaela Soto de Pacheco *et al.*, claimants for San Ramon, 2 square leagues, in Contra Costa county, granted June 10th, 1833, by José Figueroa; claim filed April 13th, 1852, rejected by the Commission November 22d, 1853, and confirmed by the District Court February 8th, 1858.
- 180, 382, N. D., 511. Jasper O'Farrell, claimant for Cañada de Capay, 9 square leagues, in Yolo county, granted May 2d, 1846, by Pio Pico to Santiago Nemesis and Francisco Berreyesa; claim filed April 13th, 1852, confirmed

by the Commission August 14th, 1855, by the District Court March 2d, 1857, and appeal dismissed April 2d, 1857; containing 40,078.58 acres.

181, 324, N. D., 416. Hiram Grimes, claimant for San Juan, $4\frac{1}{2}$ square leagues, in Placer and Sacramento counties, granted December 24th, 1844, by Manuel Micheltorena to Joel P. Dedmond; claim filed April 13th, 1852, confirmed by the Commission May 8th, 1855, by the District Court June 3d, 1856, and appeal dismissed August 11th, 1857; containing 19,982.70 acres. Patented.

182, 367, N. D. Peter Lassen, claimant for Bosquejo, 5 square leagues, in Tehama county, granted December 26th, 1844, by Manuel Micheltorena to P. Lassen; claim filed April 14th, 1852, confirmed by the Commission July 24th, 1855, by the District Court March 2d, 1857, and appeal dismissed July 29th, 1857; containing 16,208.65 acres.

183, 179, N. D. Samuel Neal, claimant for Esquon, 5 square leagues, in Butte county, granted December 22d, 1844, by Manuel Micheltorena and J. A. Sutter to S. Neal; claim filed April 16th, 1852, rejected by the Commission January 23d, 1855, confirmed by the District Court March 2d, 1857, and appeal dismissed July 30th, 1857; containing 22,193.78 acres. Patented.

184, 295, N. D., 31. Martina Castro, claimant for Shoquel, 3 miles by one-half league, in Santa Cruz county, granted November 23d, 1833, by José Figueroa to M. Castro; claim filed April 16th, 1852, confirmed by the Commission June 23d, 1854, and appeal dismissed January 22d, 1857; containing 1,668.03 acres. Patented.

185, 371, N. D., 415. William B. Ide, claimant for Baranca Colorada, 4 square leagues, in Tehama county, granted December 4th, 1844, by Manuel Micheltorena to Josiah Belden; claim filed April 19th, 1852, confirmed by the Commission July 24th, 1855, and appeal dismissed January 13th, 1857; containing 17,707.49 acres. Patented.

186, 40, S. D., 302. Joaquin de la Torre, claimant for Arroyo Seco, 4 square leagues, in Monterey county, granted December 30th, 1840, by Juan B. Alvarado to J. de la Torre; claim filed April 20th, 1852, rejected by the Commission November 22d, 1853, confirmed by the District Court March 3d, 1856, and appeal dismissed January 9th, 1857; containing 16,523.35 acres. Patented.

187, 289, S. D. Sebastian Rodriguez, claimant for Bolsa del Pajaro, 2 square leagues, in Santa Cruz county, granted September 30th, 1837, by Juan B. Alvarado to S. Rodriguez; claim filed April 20th, 1852, confirmed by the Commission March 27th, 1855, and appeal dismissed February 21st, 1857; containing 5,496.51 acres. Patented.

- 188, 257, S. D., 554. Frederick Billings *et al.*, Assignees of Bezer Simmons, claimants for an Island, 2 square leagues, in San Diego county, granted May 15th, 1846, by Pio Pico to Pedro C. Carrillo; claim filed April 20th, 1852, rejected by the Commission October 31st, 1853, and confirmed by the District Court January 9th, 1857.
- 189, 49, S. D., 479. Maria Antonia de la Gnera y Lataillade, claimant for Corral de Cuati, 3 square leagues, in Santa Barbara county, granted November 14th, 1845, by Pio Pico to Agustin Davila; claim filed April 20th, 1852, confirmed by the Commission November 22d, 1853, by the District Court September 16th, 1855, and appeal dismissed February 5th, 1857; containing 13,300.24 acres.
- 190, 45, S. D., 237. José Maria Villavicencia, claimant for Corral de Piedra, 2 square leagues, in San Luis Obispo county, granted May 14th, 1841, by Juan B. Alvarado, with an extension of 5, granted May 28th, 1846, by Pio Pico, to J. M. Villavicencia; claim filed April 20th, 1852, confirmed by the Commission November 15th, 1853, by the District Court December 3d, 1855, and appeal dismissed February 24th, 1857; containing 30,911.20 acres.
- 191, 112, S. D., 7. Charles Walters, claimant for El Toro, 1½ square leagues, in Monterey county, granted April 17th, 1835, to José Ramon Estrada; claim filed April 20th, 1852, confirmed by the Commission December 22d, 1852, by the District Court October 5th, 1855, and appeal dismissed February 24th, 1857; containing 5,668.41 acres.
- 192, 229, N. D., 202. Sebastian Rodriguez, claimant for Rincón de la Ballena, 1 square league, in Santa Cruz county, granted April 15th, 1839, by Juan B. Alvarado to José Cornelio Bernal; claim filed April 20th, 1852, and rejected by the Commission November 14th, 1854.
- 193, 227, N. D., 264. John B. R. Cooper, claimant for El Molino or Rio Ayoska, 10½ square leagues, in Sonoma county, granted December 31st, 1833, by José Figueroa, and February 24th, 1836, by Nicolas Gutierrez, to J. B. R. Cooper; claim filed April 20th, 1852, confirmed by the Commission November 14th, 1854, by the District Court March 24th, 1856, and appeal dismissed December 15th, 1856; containing 17,892.42 acres. Patented.
- 194, 39, N. D., 226. Salvador Vallejo, claimant for Llagome, 1½ square leagues, in Napa county, granted March 16th, 1841, by Juan B. Alvarado to Tomaso A. Rodriguez; claim filed April 20th, 1852, confirmed by the Commission February 21st, 1853, and appeal dismissed February 9th, 1857; containing 6,652.58 acres.
- 195, 3, S. D., 95. Josefa Antonia Gomez de Walters *et al.*, widow and heirs of Rafael Gomez, claimants for Los Tularcitos, 6 square leagues, in Monterey

county, granted December 18th, 1834, by José Figueroa to Rafael Gomez; claim filed April 20th, 1852, confirmed by the Commission December 22d, 1852, by the District Court September 24th, 1855, and appeal dismissed February 5th, 1857; containing 26,581.34 acres.

196, 302, N. D. Charles Chana, claimant for Nemshas, 4 square leagues, granted July 26th, 1844, by Manuel Micheltorena to Teodoro Sicard; claim filed April 22st, 1852, confirmed by the Commission January 23d, 1855, by the District Court October 16th, 1856, judgment of District Court reversed by the U. S. Supreme Court and petition dismissed in 24 Howard, 151.

197, 74, N. D., 400. José B. Chiles, claimant for Catacula, 2 square leagues, in Napa county, granted November 4th, 1844, by Manuel Micheltorena to J. B. Chiles; claim filed April 21st, 1852, confirmed by the Commission November 4th, 1853, by the District Court August 13th, 1855, and appeal dismissed April 2d, 1857; containing 8,545.72 acres.

198, 40, N. D., 207. Ygnacio Pacheco, claimant for San José, $1\frac{1}{2}$ square leagues, in Marin county, granted October 3d, 1840, by Juan B. Alvarado to Y. Pacheco; claim filed April 23d, 1852, confirmed by the Commission April 11th, 1853, by the District Court March 24th, 1857, and appeal dismissed July 31st, 1857; containing 6,659.25 acres. Patented.

199, 15, N. D., 507. Charles Mayer *et al.*, claimants for German, 5 square leagues, in Mendocino county, granted April 8th, 1846, by Pio Pico to Ernest Rufus; claim filed April 27th, 1852, confirmed by the Commission December 22d, 1852, by the District Court September 10th, 1855, and by the U. S. Supreme Court; containing 17,580.01 acres.

200, 81, N. D., 230. Teodoro Robles and Secundino Robles, claimants for Rincon de San Francisquito, in Santa Clara county, granted March 29th, 1841, by Juan B. Alvarado to José Peña; claim filed April 27th, 1852, confirmed by the Commission November 29th, 1853, by the District Court October 29th, 1855, and by the U. S. Supreme Court.

201, 33, N. D. Samuel J. Hensley, claimant for Aguas Nieves, 6 square leagues, in Batte county, granted December 22d, 1844, by Manuel Micheltorena to Samuel J. Hensley; claim filed April 27th, 1852, confirmed by the Commission February 14th, 1853, by the District Court July 5th, 1855, decision of the U. S. Supreme Court as to the right of appeal in 20 Howard, 261.

202, 43, N. D., 549. William Gordon and Nathan Coombs, claimants for Chimiles, 4 square leagues, in Napa county, granted May 2d, 1846, by Pio Pico to José Ygnacio Berreyesa; claim filed April 28th, 1852, confirmed by the Commission April 11th, 1853, and appeal dismissed July 27th, 1857; containing 17,762.44 acres. Patented.

- 203, 26, N. D. William Gordon, claimant for Quesesosi or Guesesosi, 2 square leagues, in Yolo county, granted January 27th, 1843, by Manuel Micheltoarena to William Gordon; claim filed April 28th, 1852, confirmed by the Commission January 10th, 1853, by the District Court March 2d, 1857, and appeal dismissed June 2d, 1857; containing 8,894.49 acres. Patented.
- 204, 308, N. D. Teodora Soto, claimant for Cañada del Hambre and Las Bolsas del Hambre, 2 square leagues, in Contra Costa county, granted May 18th, 1842, by Juan B. Alvarado to Teodora Soto; claim filed April 29th, 1852, confirmed by the Commission May 15th, 1855, by the District Court April 16th, 1857, and appeal dismissed August 11th, 1857; containing 13,312.70 acres.
- 205, 121, N. D., 571. James D. Gallbraith, claimant for Bolsa de Tomales, 5 square leagues, in Marin county, granted June 12th, 1845, by Pio Pico to Juan N. Padilla; claim filed April 29th, 1852, confirmed by Commission April 11th, 1854, by the District Court December 1st, 1854, decree reversed by the U. S. Supreme Court and cause remanded in 22 Howard, 87. Confirmed by the District Court February 7th, 1861.
- 206, 336, S. D., 110. Antonia Maria Cota *et al.*, heirs of Tomas Olivera, claimants for Tepusquet, 2 square leagues, in Santa Barbara county, granted April 7th, 1837, by Juan B. Alvarado to Tomas Olivera; claim filed April 30th, 1852, confirmed by the Commission July 3d, 1855, and appeal dismissed February 21st, 1857; containing 8,900.75 acres.
- 207, 246, N. D.; 286, S. D., (returned to N. D. September 21st, 1855.) Joseph L. Majors, in behalf of his wife, Maria de los Angeles Castro, claimant for Rancho del Refugio, one-third of Rancho, in Santa Cruz county, granted April 8th, 1839, by Juan B. Alvarado to Maria Candida, Maria Jacinta and Maria de los Angeles Castro; claim filed April 30th, 1852, rejected by the Commission January 15th, 1855, and for failure of prosecution appeal dismissed December 18th, 1856.
- 208, 180, N. D., 233. J. L. Majors, claimant for San Agustin, 1 square league, in Santa Cruz county, granted April 21st, 1841, by Juan B. Alvarado to Juan José Crisostomo Mayor; claim filed April 30th, 1852, confirmed by the Commission September 26th, 1854, by the District Court December 23d, 1857, and appeal dismissed December 23d, 1857; containing 4,436.78 acres.
- 209, 250, N. D., 324. Ramon Rodriguez and Francisco Alviso, claimants for Agua Puerca and Las Trancas, 1 square league, in Santa Cruz county, granted November 2d, 1843, by Manuel Micheltoarena to R. Rodriguez and F. Alviso; claim filed April 30th, 1852, and rejected by the Commission January 30th, 1855.

- 210, 255, N. D. William Boele, claimant for La Carbonera, one-half square league, in Santa Cruz county, granted February 3d, 1838, by Juan B. Alvarado to William Boele; claim filed April 30th, 1852, confirmed by the Commission January 23d, 1855, and appeal dismissed February 13th, 1857; containing 1,062.14 acres.
- 211, 113, S. D. Henry Haight, claimant for Atascadero, 1 square league, in San Luis Obispo county, granted May 6th, 1842, by Juan B. Alvarado to Trifon Garcia; claim filed May 3d, 1852, confirmed by the Commission March 6th, 1855, and appeal dismissed January 19th, 1857; containing 4,348.23 acres. Patented.
- 212, 288, N. D. Pearson Barton Reading, claimant for part of Capay, (see No. 157) 5 square leagues, in Tehama county, granted October 13th, 1835, by Manuel Micheltorena to Josefa Soto; claim filed May 3d, 1852, and rejected by the Commission March 6th, 1855.
- 213, 107, N. D., 30. John Marsh, claimant for Los Mejanos, 4 leagues by 3, in Contra Costa county, granted October 13th, 1835, by José Castro to José Noriega; claim filed May 3d, 1852, rejected by the Commission March 14th, 1854, confirmed by the District Court April 9th, 1858, and by the U. S. Supreme Court.
- 214, 275, S. D., 131. Francisco and Juan Bolcoff, claimants for Refugio, 3 leagues by 2, in Santa Cruz county, granted April 7th, 1841, by Juan B. Alvarado to José Bolcoff; claim filed May 5th, 1852, confirmed by the Commission January 30th, 1855, and appeal dismissed February 21st, 1857; containing 12,147.12 acres. Patented.
- 215, 37, S. D., 130. Miguel Abila, claimant for San Miguelito, 2 square leagues, in San Luis Obispo county, granted May 10th, 1842, by Juan B. Alvarado to M. Abila; claim filed May 5th, 1852, confirmed by the Commission December 6th, 1853, by the District Court January 25th, 1856, and appeal dismissed February 23d, 1857.
- 216, 38, S. D., 503. Miguel Abila, claimant for addition to San Miguelito, (see No. 215) 500 varas, in San Luis Obispo county, granted March 17th, 1846, by Pio Pico to Miguel Abila; claim filed May 6th, 1852, confirmed by the Commission December 6th, 1853, by the District Court January 25th, 1856, and appeal dismissed February 25th, 1857.
- 217, 21, S. D., 355, 478. Octaviano Gutierrez, claimant for La Laguna, in Santa Barbara county, granted November 13th, 1845, by Pio Pico to Miguel Abila; claim filed May 7th, 1852, confirmed by the Commission February 21st, 1853, by the District Court December 3d, 1855, and appeal dismissed February 23d, 1857; containing 18,212.48 acres.

- 218, 28, S. D., 268, 317, 470, 524. John Wilson, claimant for Cañada de los Osos Peeho y Islay, in San Luis Obispo county, granted December 1st, 1842, by Juan B. Alvarado to Victor Linares, April 27th, 1843, by Manuel Micheltorena to Francisco Vadillo, and September 24th, 1845, by Pio Pico to James Scott and John Wilson; claim filed May 7th, 1852, confirmed by the Commission April 18th, 1853, and appeal dismissed January 8th, 1859; containing 32,430.70 acres.
- 219, 200, S. D., 272. Guillermo Domingo Foxon, claimant for Tinaquaic, 2 square leagues, in Santa Barbara county, granted May 6th, 1837, by Juan B. Alvarado to Victor Linares; claim filed May 7th, 1852, confirmed by the Commission February 7th, 1853, by the District Court October 5th, 1855, and appeal dismissed February 5th, 1857; containing 8,874.60 acres.
- 220, 25, S. D., 474. John Wilson, claimant for Cañada del Chorro, 1 square league, in San Luis Obispo county, granted October 10th, 1845, by Pio Pico to Diego Scott and Juan Wilson; claim filed May 7th, 1852, confirmed by the Commission April 18th, 1853, by the District Court October 20th, 1855, and appeal dismissed February 5th, 1857; containing 3,166.99 acres. Patented.
- 221, 184, S. D., 534, 575. Thomas M. Robbins and Manuela Carrillo de Jones, claimants for La Calera or Las Positas, described by boundaries, in Santa Barbara county, granted May 16th, 1843, by Manuel Micheltorena to Narciso Fabrigat, and one-half square league additional, July 1st, 1846, by Pio Pico to Thomas M. Robbins; claim filed May 8th, 1852, confirmed by the Commission April 11th, 1854, and appeal dismissed February 21st, 1857; containing 3,281.70 acres.
- 222, 2, S. D., 372. John Keyes, claimant for Cañada de Salsipuedes, 1½ square leagues, in Santa Barbara county, granted May 18th, 1844, by Manuel Micheltorena to Pedro Cordero; claim filed May 8th, 1852, confirmed by the Commission December 18th, 1852, by the District Court October 12th, 1855, and appeal dismissed February 24th, 1857; containing 6,655.38 acres.
- 223, 134, N. D., 182. Juan Martin, claimant for Corte de Madera de Novato, 2 square leagues, in Marin county, granted October 16th, 1839, by Juan B. Alvarado to J. Martin; claim filed May 8th, 1852, confirmed by the Commission February 14th, 1854, by the District Court October 29th, 1855, and appeal dismissed September 8th, 1857; containing 8,878.82 acres.
- 224, 366, S. D. John Wilson, claimant for part of the buildings of the Mission San Luis Obispo, in San Luis Obispo county, granted December 6th, 1845, by Pio Pico to Scott, Wilson and McKinley; claim filed May 10th, 1852, confirmed by the Commission July 17th, 1855, and by the District Court June 8th, 1858.

- 225, 231, S. D. Valentin Cota *et al.*, claimants for Rio de Santa Clara, in Santa Clara county, granted May 22d, 1837, by Juan B. Alvarado to Valentin Cota *et al.*; claim filed May 10th, 1852, rejected by the Commission October 31st, 1854, and confirmed by the District Court June 4th, 1857.
- 226, 268, N. D. Michael C. Nye, claimant for Willy, 4 square leagues, granted December 22d, 1844, by Manuel Micheltorena and J. A. Sutter to Michael C. Nye; claim filed May 10th, 1852, confirmed by the Commission February 8th, 1855, by the District Court February 16th, 1857, and rejected by the U. S. Supreme Court in 21 Howard, 408.
- 227, 370, N. D., 396. Andrew Randall and Samuel Todd, claimants for Aguas Frias, 6 square leagues, in Butte county, granted November 10th, 1844, by Manuel Micheltorena to Salvador Osio; claim filed May 12th, 1852, confirmed by the Commission July 17th, 1853, by the District Court May 7th, 1857, and appeal dismissed May 7th, 1857; containing 26,761.40 acres. Patented.
- 228, 362, N. D., 252, 419. Guillermo Eduardo Hartnell, claimant for Todos Santos y San Antonio, 5 square leagues, in Santa Barbara county, granted August 28th, 1841, by Juan B. Alvarado, and Cosumnes, 11 square leagues, in Sacramento county, November 3d, 1844, by Manuel Micheltorena, to Salvador Osio; claim filed May 12th, 1852, confirmed for six leagues on the Cosumnes river by the Commission August 7th, 1855, by the District Court May 14th, 1857, and decree affirmed by the U. S. Supreme Court in 22 Howard, 286.
- 229, 131, N. D. Josefa Palomares *et al.*, heirs of Francisco Guerrero, claimants for 400 varas square, Mission Dolores, in San Francisco county, granted November 30th, 1836; claim filed May 15th, 1852, confirmed by the Commission March 14th, 1854, by the District Court March 24th, 1856, and appeal dismissed April 2d, 1857; containing 28.41 acres.
- 230, 232, N. D., 281. William Wolfskill, claimant for Rio de los Potos, 4 square leagues, in Yolo and Solano counties, granted May 24th, 1842, by Juan B. Alvarado to Francisco Guerrero; claim filed May 15th, 1852, confirmed by the Commission November 7th, 1854, and appeal dismissed March 14th, 1857; containing 17,754.73 acres. Patented.
- 231, 102, N. D., 126. Antonio Suñol *et al.*, claimants for El Valle de San José, described by boundaries, in Alameda county, granted April 10th, 1839, by Juan B. Alvarado to Antonio Maria Pico *et al.*; claim filed May 18th, 1852, confirmed by the Commission January 31st, 1854, by the District Court January 14th, 1856, and decision of the U. S. Supreme Court as to the right of appeal in 20 Howard, 261; containing 51,572.26 acres.

- 232, 103, N. D., 548. Juan Roland, claimant for 11 square leagues, at the junction of the San Joaquin and Stanislaus rivers, granted May 2d, 1846, by Pio Pico to Juan Roland; claim filed May 18th, 1852, and rejected by the Commission January 31st, 1854.
- 233, 329, N. D., 365. Joshua S. Brackett, claimant for Soulajule, 3 square leagues, in Marin county, granted March 29th, 1844, by Manuel Micheltorena to Ramon Mesa; claim filed May 20th, 1852, rejected by the Commission April 17th, 1855, confirmed by the District Court March 3d, 1856, and appeal dismissed August 7th, 1857; containing 2,492.19 acres.
- 234, 328, N. D. George N. Cornwell, claimant for Soulajule, 1½ square miles, in Marin county, granted March 29th, 1844, by Manuel Micheltorena to Ramon Mesa; claim filed May 20th, 1852, rejected by the Commission April 17th, 1855, confirmed by the District Court February 23d, 1857, and appeal dismissed August 7th, 1857; containing 919.18 acres.
- 235, 348, N. D. Emanuel Pratt, claimant for Socayac, 3 square leagues, granted December 22d, 1844, by Manuel Micheltorena to John Chamberlain; claim filed May 21st, 1852, confirmed by the Commission July 10th, 1855, by the District Court March 16th, 1857, and decree reversed by the U. S. Supreme Court, with direction to dismiss the petition, in 23 Howard, 476.
- 236, 175, N. D., 433. Maria Anastasia Higuera de Berreyesa, claimant for Las Putas, 8 square leagues, in Solano county, granted November 3d, 1843, by Manuel Micheltorena to José de Jesus y Sisto Berreyesa; claim filed May 21st, 1852, confirmed by the Commission September 5th, 1854, by the District Court August 13th, 1855, and appeal dismissed April 2d, 1857; containing 35,515.82 acres.
- 237, 423, N. D. Mayor and Common Council of Sonoma, claimants for Pueblo of Sonoma, 4 square leagues, granted June 24th, 1835, by M. G. Vallejo to Pueblo of Sonoma; claim filed May 21st, 1852, and confirmed by the Commission January 22d, 1856.
- 238, 129, N. D., 221. Maria Antonia Mesa, widow of Rafael Soto, claimant for Rinconada del Arroyo de San Francisquito, one-half square league, in Santa Clara county, granted February 16th, 1841, by Juan B. Alvarado to M. A. Mesa; claim filed May 25th, 1852, rejected by the Commission March 21st, 1854, confirmed by the District Court November 26th, 1855, and appeal dismissed April 16th, 1857; containing 2,229.84 acres.
- 239, 191, S. D., 391. José Joaquin Ortega and Edouardo Stokes, claimants for Santa Ysabel, 4 square leagues, in San Diego county, granted November 9th, 1844, by Manuel Micheltorena to José Joaquin Ortega and Edouardo Stokes; claim filed May 25th, 1852, rejected by the Commission September 19th, 1854, and confirmed by the District Court February 8th, 1858.

- 240, 327, S. D., 327. José Antonio Aguirre and Ignacio del Valle, claimants for Tejon, 22 square leagues, in Los Angeles and Buena Vista counties, granted November 24th, 1843, by Manuel Micheltorena to J. A. Aguirre and Ignacio del Valle; claim filed May 25th, 1852, confirmed by the Commission May 8th, 1855, and by the District Court March 15th, 1858.
- 241, 351, S. D., 375. Petronillo Rios, claimant for Paso de Robles, 6 square leagues, in San Luis Obispo county, granted May 12th, 1844, by Manuel Micheltorena to Pedro Narvaez; claim filed May 25th, 1852, confirmed by the Commission July 3d, 1855, and appeal dismissed February 21st, 1857; containing 25,993.18 acres.
- 242, 57, S. D., 504. Juana Tico de Rodriguez *et al.*, heirs of Ramon Rodriguez, claimants for Cañada de San Miguelito and Cañada del Diablo, 2 square leagues, in Santa Barbara county, granted March 21st, 1846, by Pio Pico to Ramon Rodriguez; claim filed May 26th, 1852, rejected by the Commission December 13th, 1853, confirmed by the District Court January 7th, 1856, and appeal dismissed February 5th, 1856; containing 8,877.04 acres.
- 243, 32, N. D., 154. George C. Yonnt, claimant for Caymus, 2 square leagues, in Napa county, granted February 23d, 1836, by Nicolas Gutierrez to Geo. C Yont; claim filed May 26th, 1852, confirmed by the Commission February 8th 1853, by the District Court July 17th, 1855, and appeal dismissed February 23d, 1857; containing 11,886.63 acres.
- 244, 211, N. D. Liberata Ceseña Bull *et al.*, heirs of William Fisher, claimants for La Laguna Seca, 4 square leagues, in Santa Clara county, granted July 23d, 1834, by José Figueroa to Juan Alvarez; claim filed May 27th, 1852, confirmed by the Commission September 26th, 1853, by the District Court July 17th, 1855, and appeal dismissed January 14th, 1857; containing 19,972.92 acres.
- 245, 331, N. D. Pedro J. Vasquez, claimant for part of SoulaJule, 12 square leagues, in Marin county, granted March 29th, 1844, by Manuel Micheltorena to Ramon Mesa; claim filed May 27th, 1852, rejected by the Commission April 17th, 1855, confirmed by the District Court March 3d, 1856, and appeal dismissed August 7th, 1857; containing 4,473.71 acres.
- 246, 352, N. D. Luis D. Watkins, claimant for part of SoulaJule, 2½ square leagues, in Marin county, granted March 29th, 1844, by Manuel Micheltorena to Ramon Mesa; claim filed May 27th, 1852, rejected by the Commission April 17th, 1855, confirmed by the District Court March 3d, 1856, and appeal dismissed August 7th, 1857; containing 919.18 acres.
- 247, 334, N. D. Martin F. Gormley, claimant for part of SoulaJule, one-half square league, in Marin county, granted March 29th, 1844, by Manuel

Micheltorenn to Ramon Mesa ; claim filed May 27th, 1852, rejected by the Commission April 17th, 1855, confirmed by the District Court March 3d, 1856, and appeal dismissed March 7th, 1857 ; containing 2,266.25 acres.

248, 331, N. D. Charles Covillaud, claimant for New Helvetia, part of 11 leagues first granted, in Yuba and Sutter counties, granted July 18th, 1841, by Juan B. Alvarado, and 1845, by Mannel Micheltorena, to John A. Sutter ; claim filed May 31st, 1852, confirmed by the Commission May 22d, 1855, and by the District Court April 10th, 1858.

249, 140, N. D. Mariano Guadalupe Vallejo, claimant for Yulupa, 3 square leagues, in Sonoma county, granted November 23d, 1844, by Manuel Micheltorena to Miguel Alvarado ; claim filed May 31st, 1852, rejected by the Commission May 10th, 1854, confirmed by the District Court January 21st, 1857, decree reversed by the U. S. Supreme Court and cause remanded for further evidence, in 22 Howard, 416.

250, 321, N. D., 306. Mariano Guadalupe Vallejo, claimant for Petaluma, 10 square leagues, in Sonoma county, granted October 22d, 1843, by Manuel Micheltorena to M. G. Vallejo, (grant) and 5 square leagues, June 22d, 1844, by Manuel Micheltorena to M. G. Vallejo (sale by the Government) ; claim filed May 31st, 1852, confirmed by the Commission May 22d, 1855, by the District Court March 16th, 1857, and appeal dismissed July 3d, 1857 ; containing 66,622.17 acres.

251, 326, N. D. Guadalupe Vasquez de West *et al.*, claimants for San Miguel, 6 square leagues, in Sonoma county, granted November 2d, 1840, by Juan B. Alvarado, and October 14th, 1844, by Manuel Micheltorena, to Marcus West ; claim filed May 31st, 1852, rejected by the Commission April 24th, 1855, confirmed by the District Court June 2d, 1857, and decree confirmed by the U. S. Supreme Court for one league and a half, in 22 Howard, 315.

252, 58, N. D., 362. Joaquin Carrillo, claimant for Llano de Santa Rosa, 3 square leagues, in Sonoma county, granted March 29th, 1844, by Manuel Micheltorena to Marcus West ; claim filed May 31st, 1852, confirmed by the Commission October 21st, 1853, by the District Court March 24th, 1856, and appeal dismissed January 13th, 1857 ; containing 13,336.55 acres.

253, 358, S. D., 579. J. J. Warner, claimant for Camajal y El Palomar, 4 square leagues, in San Diego county, granted August, 1846, by Pio Pico to Juan J. Warner ; claim filed May 31st, 1852, rejected by the Commission July 17th, 1855, and by the District Court September 14th, 1860.

254, 219, S. D., 228, 407. J. J. Warner, claimant for Agna Caliente or Valle de San José, 6 square leagues, in San Diego county, granted January 8th, 1840, by Juan B. Alvarado to José Antonio Pico, and November 28th, 1844, by

Manuel Micheltorena to Juan J. Warner; claim filed May 31st, 1852, confirmed by the Commission October 10th, 1854, by the District Court February 6th, 1856, and appeal dismissed February 24th, 1857; containing 26,629.88 acres.

- 255, 298, N. D., 340. Charles M. Weber, claimant for Campo de los Franceses, 11 square leagues, in San Joaquin county, granted June 13th, 1844, by Manuel Micheltorena to Guillermo Gulnack; claim filed May 31st, 1852, confirmed by the Commission April 17th, 1855, by the District Court May 1st, 1857, and by the U. S. Supreme Court; containing 48,747.03 acres. Patented.
- 256, 234, N. D., 300. José Joaquin Estudillo, claimant for San Leandro, 1 square league, in Alameda county, granted October 16th, 1842, by Juan B. Alvarado to Joaquin Estudillo; claim filed May 31st, 1852, confirmed by the Commission January 9th, 1855, by the District Court May 7th, 1857, and by the U. S. Supreme Court; containing 7,010.84 acres.
- 257, 97, N. D. Mariano Castro, claimant for Rancho del Refugio or Pastoria de las Borregas, 2 square leagues, in Santa Clara county, granted June 15th, 1842, by Juan B. Alvarado to Francisco Estrada; claim filed May 31st, 1852, confirmed by the Commission January 23th, 1854, by the District Court November 23d, 1859, and by the U. S. Supreme Court.
- 258, 119, N. D., 358. Tomas Pacheco and Agustin Alviso, claimants for Potrero de los Cerritos, 3 square leagues, in Alameda county, granted March 23d, 1844, by Manuel Micheltorena to T. Pacheco and A. Alviso; claim filed May 31st, 1852, confirmed by the Commission February 14th, 1854, by the District Court October 29th, 1855, and by the U. S. Supreme Court; containing 10,610.26 acres.
259. William Reynolds and Daniel Frink, claimants for part of Nicasia, 2½ square leagues, in Marin county, granted August 1st, 1844, by Manuel Micheltorena to Pablo de la Guerra and Juan Cooper; claim filed June 2d, 1852 (see No. 270).
- 260, 342, N. D., 234. Isaac Graham *et al.*, claimants for Zayanta, 1 league by one-half, in Santa Cruz county; granted April 22d, 1841, by Juan B. Alvarado to Juan José Crisostomo Mayor; claim filed June 4th, 1852, confirmed by the Commission June 26, 1855, and appeal dismissed; containing 2,514.64 acres.
- 261, 360, N. D., 311. James M. Harbin *et al.*, claimants for Rio de Jesus Maria, 6 square leagues, in Yolo county, granted October 23d, 1843, by Manuel Micheltorena to Tomas Hardy; claim filed June 8th, 1852, confirmed by the Commission June 26th, 1855, by the District Court March 23d, 1857, and appeal dismissed May 8th, 1857; containing 26,637.42 acres. Patented.

- 262, 114, S. D., 467. T. W. Sutherland, Guardian of the minor children of Miguel Pedrorena, claimants for El Cajon, 11 square leagues, in San Diego county, granted September 23d, 1845, by Pio Pico to Maria Antonia Estudillo de Pedrorena; claim filed June 10th, 1852, confirmed by the Commission March 14th, 1854, by the District Court September 28th, 1855, and by the U. S. Supreme Court in 19 Howard, 363; containing 48,794.03 acres.
- 263, 82, S. D., 495. T. W. Sutherland, Guardian of the minor children of Miguel Pedrorena, claimants for San Jacinto Nuevo and Potrero, in San Diego county, granted January 14th, 1846, by Pio Pico to Miguel Pedrorena; claim filed June 10th, 1852, rejected by the Commission December 27th, 1853, confirmed by the District Court December 24th, 1855, and appeal dismissed February 23d, 1857.
- 264, 254, S. D. W. E. P. Hartnell, claimant for part of the Alisal, two-thirds square league, in Monterey county, granted January 26th, 1834, by José Figueroa to Guillermo Eduardo Hartnell; claim filed June 10th, 1852, confirmed by the Commission October 31st, 1854, by the District Court October 3d, 1855, and appeal dismissed February 5th, 1857; containing 2,971.26 acres.
- 265, 241, S. D. Maria Antonia de la Guerra y Lataillade, claimant for La Zaca, in Santa Barbara county, granted, 1838, by Juan B. Alvarado to Antonio; claim filed June 10th, 1852, confirmed by the Commission November 14th, 1854, by the District Court January 25th, 1856, and appeal dismissed February 5th, 1857; containing 4,480 acres.
- 266, 115, S. D., 409. Agustin Yansens, claimant for Lomas de la Purificacion, 3 square leagues, in Santa Barbara county, granted December 27th, 1844, by Manuel Micheltorena to A. Yansens; claim filed June 10th, 1852, confirmed by the Commission November 14th, 1854, by the District Court October 3d, 1855, and appeal dismissed February 5th, 1857; containing 13,341.49 acres.
- 267, 170, N. D., 370. Antonio Maria Pico and Henry M. Naglee, claimants for El Pescadero, 8 square leagues, in San Joaquin county, granted November 28th, 1843, by Manuel Micheltorena to Antonio Maria Pico; claim filed June 10th, 1852, rejected by the Commission September 19th, 1854, confirmed by the District Court September 2d, 1856, and by the U. S. Supreme Court; containing 35,546.39 acres.
- 268, 218, N. D., 578. Josefa Carrillo de Fitch *et al.*, heirs of Henry D. Fitch, claimants for Paraje del Arroyo, one-half square league, at Presidio San Francisco, granted July 24th, 1846, by Pio Pico to Henry D. Fitch and Francisco Guerrero; claim filed June 10th, 1852, rejected by the Commission November 7th, 1854, and by the District Court December 10th, 1857.

- 269, 275, N. D., 136. Encarnacion Mesa *et al.*, claimants for San Antonio, 1 square league, in Santa Clara county, granted March 24th, 1839, by Juan B. Alvarado to Prado Mesa; claim filed June 11th, 1852, confirmed by the Commission January 30th, 1855, by the District Court March 10th, 1856, and appeal dismissed March 13th, 1857; containing 898.41 acres.
- 270, 392, N. D., 420. Henry W. Halleek and James Black, claimants for Nicasia, 10 square leagues, in Marin county, granted August 18th, 1844, by Manuel Micheltorena to Pablo de la Guerra and Juan Cooper; claim filed June 14th, 1852, confirmed by the Commission September 25th, 1855, by the District Court March 9th, 1857, and appeal dismissed April 30th, 1857; containing 56,621.04 acres.
- 271, 333, S. D. Joaquin Gutierrez, claimant for El Potrero de San Carlos, 1 square league, in Monterey county, granted October 28th, 1837, by Juan B. Alvarado to Fructuoso; claim filed June 14th, 1852, confirmed by the Commission June 5th, 1855, and appeal dismissed June 8th, 1857; containing 4,306.98 acres.
- 272, 116, S. D., 211. Maria Merced Lugo de Foster *et al.*, claimants for San Pascual, 3 square leagues in Los Angeles county, granted September 24th, 1840, by Juan B. Alvarado to Enrique Sepulveda and José Perez; claim filed June 14th, 1852, rejected by the Commission February 14th, 1854, and dismissed for want of prosecution March 7th, 1860.
- 273, 98, N. D., 345. Antonio Maria Peralta, claimant for part of San Antonio, 2 square leagues, in Alameda county, granted August 16th, 1820, by Pablo V. de Sola to Luis Peralta; claim filed June 18th, 1852, confirmed by the Commission February 7th, 1854, by the District Court December 4th, 1855, and appeal dismissed October 20th, 1857; containing 16,067.76 acres.
- 274, 99, N. D. Ygnacio Peralta, claimant for part of San Antonio, 2 square leagues, in Alameda county, granted August 16th, 1820, by Pablo V. de Sola to Luis Peralta; claim filed June 18th, 1852, confirmed by the Commission February 7th, 1854, by the District Court January 13th, 1857, and appeal dismissed April 20th, 1857; containing 9,416.66 acres. Patented.
- 275, 315, S. D. Josefa Morales del Castillo Negrete, claimant for Santa Ana y Santa Anita, 6 square leagues, in San Joaquin county, granted April 15th, 1836, by Nicolas Gutierrez to Luis del Castillo Negrete; claim filed June 24th, 1852, rejected by the Commission March 6th, 1855, and for failure of prosecution appeal dismissed December 17th, 1856.
- 276, 226, N. D., 227. Manuel Alvisu, claimant for Quito, 3 square leagues, in Santa Clara county, granted March 16th, 1841, by Juan B. Alvarado to José Z. Fernaudez and José Noriega; claim filed June 28th, 1852, con-

firmed by the Commission December 5th, 1853, by the District Court January 20th, 1857, and appeal dismissed March 9th, 1857; containing 13,309.85 acres.

- 277, 239, N. D. Francisco Berreyesa *et al.*, heirs of G. Berreyesa, claimants for part of the Rincon de los Esteros, described by boundaries, in Santa Clara county, granted February 10th, 1838, by Juan B. Alvarado to Ygnacio Alvisu; claim filed June 28th, 1852, confirmed by the Commission December 26th, 1854, by the District Court December 28th, 1857, and appeal dismissed February 18th, 1858.
- 278, 204, N. D., 114. Rafael Alvisu *et al.*, claimants for part of the Rincon de los Esteros, described by boundaries, in Santa Clara county, granted February 10th, 1838, by Juan B. Alvarado to Ygnacio Alvisu; claim filed June 28th, 1852, confirmed by the Commission December 26th, 1854, by the District Court December 24th, 1857, and appeal dismissed February 20th, 1858; containing 2,200.19 acres.
- 279, 245, S. D. Juan Miguel Anzar, claimant for Vega del Rio del Pajaro, 8,000 acres, in Monterey county, granted April 17th, 1820, by Pablo V. de Sola to Antonio Maria Castro; claim filed June 28th, 1852, confirmed by the Commission December 5th, 1854, by the District Court December 12th, 1856, and appeal dismissed June 4th, 1857; containing 4,310.29 acres.
- 280, 427, N. D. City of San Francisco, claimant for 4 square leagues, granted in 1833 to the Pueblo of San Francisco; claim filed July 2d, 1852, confirmed by the Commission October 3d, 1854, and appeal dismissed March 30th, 1857.
- 281, 207, N. D. The Executors and Heirs of Agustin Iturbide, claimants for 400 square leagues, granted April 18th, 1835, to Agustin Iturbide; claim filed July 6th, 1852, rejected by the Commission December 19th, 1854, dismissed by the District Court January 8th, 1858, for want of jurisdiction, and decree affirmed by the U. S. Supreme Court in 22 Howard, 290.
- 282, 221, N. D., 550. John Roland and J. L. Hornsby, claimants for Los Huecos, 9 square leagues, in Santa Clara county, granted May 6th, 1846, by Pio Pico to Luis Arenas and John Roland; claim filed July 6th, 1852, and rejected by the Commission November 7th, 1854.
- 283, 90, N. D., 508. Pedro Sainsevain, claimant for La Cañada del Rincon, 2 square leagues, in Santa Cruz county, granted July 10th, 1843, by Pio Pico to Pedro Sainsevain; claim filed July 6th, 1852, confirmed by the Commission January 17th, 1854, and appeal dismissed September 20th, 1854; containing 5,826.86 acres. Patented.

- 284, 205, N. D., 278. Maria Antonia Martinez de Richardson *et al.*, claimants for Pinole, 4 square leagues, in Contra Costa county, granted June 1st, 1842, by Juan B. Alvarado to Ygnacio Martinez; claim filed July 8th, 1852, confirmed by the Commission October 24th, 1854, and appeal dismissed March 10th, 1857; containing 17,786.49 acres.
- 285, 29, N. D., 223, 309. Guillermo Castro, claimant for part of San Lorenzo, 600 varas square, in Alameda county, granted February 23d, 1841, by Juan B. Alvarado to G. Castro; and for San Lorenzo, 6 square leagues, in Alameda county, granted October 24th, 1843, by Manuel Micheltorena to G. Castro; claim filed July 8th, 1852, confirmed by the Commission February 14th, 1853, by the District Court July 6th, 1855, and appeal dismissed January 16th, 1858; containing 26,717.43 acres.
- 286, 419, N. D. The Mayor and Common Council of San José, claimants for land, described by boundaries, granted July 22d, 1778, by Felipe de Neve to Pueblo of San José; claim filed July 14th, 1852, confirmed by the Commission February 5th, 1856, and by the District Court November 26th, 1859.
- 287, 426, N. D. Charles White and Isaac Brenham, Trustees for C. White *et al.*, claimants for land granted by Felipe de Neve to the Mayor and Common Council of the City of San José; claim filed July 14th, 1852, and rejected by the Commission February 5th, 1856.
- 288, 280, N. D. Joseph M. Miller, claimant for part of Llano de Santa Rosa, 1 square league, in Sonoma county, granted March 29th, 1844, by Manuel Micheltorena to Joaquin Carrillo; claim filed July 15th, 1852, rejected by the Commission March 6th, 1858, and appeal dismissed April 21st, 1856.
- 289, 398, N. D., 472. Charles J. Brenham *et al.*, claimants for Llano Seco, 4 square leagues, in Butte county, granted, provisionally, July 26th, 1844, by Manuel Micheltorena, and October 2d, 1845, by Pio Pico, to Sebastian Keyser; claim filed July 17th, 1852, rejected by the Commission September 25th, 1855, confirmed by the District Court May 26th, 1857, and appeal dismissed June 3d, 1859; containing 17,767.17 acres. Patented.
- 290, 70, S. D., 166. Vicente Cantua, claimant for Rancho Nacional, 2 square leagues, in Monterey county, granted April 4th, 1839, by Juan B. Alvarado to Vicente Cantua; claim filed July 17th, 1852, confirmed by the Commission January 24th, 1854, by the District Court January 26th, 1855, and appeal dismissed January 28th, 1857; containing 6,633.19 acres.
- 291, 318, N. D. M. G. Vallejo, claimant for Suscol, in Solano county, granted March 15th, 1843, by Manuel Micheltorena to M. G. Vallejo; claim filed July 17th, 1852, confirmed by the Commission May 22d, 1855, and by the District Court March 22d, 1860.

- 292, 238, N. D. Ellen E. White, claimant for part of the Rincon de los Esteros, 2,000 acres, in Santa Clara county, granted February 10th, 1838, by Juan B. Alvarado to Ygnacio Alvisu; claim filed July 19th, 1852, confirmed by the Commission December 19th, 1853, by the District Court December 28th, 1857, and appeal dismissed February 9th, 1858; containing 2,308.17 acres.
- 293, 137, N. D., 371. Hiram Grimes *et al.*, claimants for El Pescadero, 8 square leagues, in San Joaquin county, granted November 28th, 1843, by Manuel Micheltorena to Valentin Higuera and Rafael Feliz; claim filed July 22d, 1852, rejected by the Commission February 14th, 1854, confirmed by the District Court April 11th, 1856, and appeal dismissed December 22d, 1856; containing 35,446.06 acres. Patented.
- 294, 270, N. D. James Noe, claimant for Island of Sacramento, 5 square leagues, granted March 15th, 1845, by Juan B. Alvarado to Roberto Elwell; claim filed July 24th, 1852, rejected by the Commission February 8th, 1855, confirmed by the District Court November 15th, 1856, decree reversed by the U. S. Supreme Court, cause remanded and petition to be dismissed, in 23 Howard, 312.
- 295, 390, N. D. Edward A. Breed *et al.*, claimants for Mission of San Rafael, 16 square leagues, in Marin county, granted June 8th, 1846, by Pio Pico to Antonio Suñol and Antonio Maria Pico; claim filed July 26th, 1852, and rejected by the Commission September 11th, 1855.
- 296, 117, S. D., 11. José de la Guerra y Noriega, claimant for Las Posas, 6 square leagues, in Santa Barbara county, granted May 15th, 1834, by Jos Figueroa to José Carrillo; claim filed July 27th, 1852, confirmed by the Commission February 28th, 1854, by the District Court December 18th, 1856, and appeal dismissed January 21st, 1858; containing 26,623.26 acres.
- 297, 325, S. D. Manuel Larios, claimant for 1 square league, in Monterey county, granted May 4th, 1839, by José Castro to M. Larios; claim filed August 5th, 1852, confirmed by the Commission June 19th, 1855, and by the District Court December 23d, 1858.
- 298, 374, N. D., 312. J. Jesus Peña *et al.*, heirs of J. G. Peña, claimants for Tzabaco, 4 square leagues, in Sonoma county, granted October 14th, 1843, by Manuel Micheltorena to José German Peña; claim filed August 5th, 1852, confirmed by the Commission June 26th, 1855, by the District Court March 9th, 1857, and appeal dismissed April 2d, 1857; containing 15,439.32 acres. Patented.
- 299, 364, S. D. Nicolas A. Den *et al.*, claimants for San Marcos, 8 square leagues, in Santa Barbara county, granted June 8th, 1846, by Pio Pico to N. A.

- Den; claim filed August 11th, 1852, confirmed by the Commission July 17th, 1855, and appeal dismissed June 8th, 1857; containing 35,573.10 acres.
- 300, 22, N. D., 408. Fernando Feliz, claimant for Sanel, 4 square leagues, in Mendocino county, granted November 9th, 1844, by Manuel Micheltorena to F. Feliz; claim filed August 14th, 1852, rejected by the Commission October 18th, 1853, confirmed by the District Court January 14th, 1856, and appeal dismissed March 20th, 1857; containing 17,754.38 acres. Patented.
- 301, 322, N. D., 50. Domingo Peralta, claimant for half of San Ramon or Las Juntas, described by boundaries, in Contra Costa county, granted in 1833, by José Figueroa to Bartolo Pacheco and Mariano Castro; claim filed August 14th, 1852, confirmed by the Commission May 15th, 1855, by the District Court March 2d, 1857, and appeal dismissed January 5th, 1858.
- 302, 43, S. D., 189. José de Jesus Pico, claimant for Piedra Blanca, described by boundaries, in San Luis Obispo county, granted January 18th, 1840, by Juan B. Alvarado to José de Jesus Pico; claim filed August 14th, 1852, confirmed by the Commission December 13th, 1853, by the District Court September 25th, 1855, and appeal dismissed February 4th, 1857.
- 303, 376, N. D. James Murphy, claimant for Cazadores, 4 square leagues, in Sacramento county, granted December 22d, 1844, by Manuel Micheltorena to Ernesto Rufus; claim filed August 14th, 1852, confirmed by the Commission July 17th, 1855, by the District Court September 22d, 1856, decree reversed by the U. S. Supreme Court and cause remanded, with direction to dismiss the petition, 23 Howard, 476.
- 304, 260, S. D., 577. Tomas Herrera and Geronimo Quintana, claimants for San Juan Capistrano del Camote, 10 sitios of 4,428 acres each, in San Luis Obispo county, granted July 11th, 1846, by Pio Pico to T. Herrera and G. Quintana; claim filed August 14th, 1852, rejected by the Commission December 26th, 1854, and dismissed for failure of prosecution August 8th, 1860.
- 305, 44, S. D. Ygnacio Pastor, claimant for Las Milpitas, in Monterey county, granted May 5th, 1838, by Juan B. Alvarado to Y. Pastor; claim filed August 14th, 1852, confirmed by the Commission December 5th, 1853, and by the District Court August 28th, 1860.
- 306, 395, N. D., 366. Domingo Peralta, claimant for Cañada del Corte de Madera, in Santa Clara county, granted in 1833, by José Figueroa to D. Peralta and Maximo Martinez; claim filed August 14th, 1852, rejected by the Commission October 2d, 1855, and confirmed by the District Court April 6th, 1858.

- 307, 311, N. D. G. W. P. Bissell and William H. Aspinwall, claimants for Isla de la Yegua, or Mare Island, described by boundaries, in Sonoma county, granted October 31st, 1840, by Manuel Jimeno, and May 20th, 1841, by Juan B. Alvarado, to Victor Castro; claim filed August 30th, 1852, confirmed by the Commission May 8th, 1855, and by the District Court March 2d, 1857.
- 308, 9, S. D. Antonio Maria Lugo, claimant for San Antonio, in Los Angeles county, granted in 1810, by José Dario de Arguello, confirmed by Don Luis Arguello April 1st, 1823, extension granted by José M. Echeandia April 23d, 1827, and finally granted by Juan B. Alvarado, September 27th, 1838, to A. M. Lugo; claim filed August 30th, 1852, confirmed by the Commission February 21st, 1853, by the District Court December 3d, 1855, and appeal dismissed February 24th, 1857; containing 29,514.13 acres.
- 309, 212, S. D. Maria Antonia de la Guerra y Lataillade, claimant for El Alamo Pintado, 1 square league, in Santa Barbara county, granted August 16th, 1843, by Manuel Micheltoarena to Marcelino; claim filed August 30th, 1852, rejected by the Commission September 26th, 1854, and by the District Court June 3d, 1857.
- 310, 401, N. D. Jnana Briones de Miranda *et al.*, heirs of Apolinario Miranda, claimants for Ojo de Agua de Figueroa, 100 varas square, in San Francisco county, granted November 16th, 1833, by José Sanchez to Apolinario Miranda; claim filed August 30th, 1852, rejected by the Commission October 23d, 1855, and confirmed by the District Court November 25th, 1858.
- 311, 188, N. D. Manuel Diaz, claimant for Sacramento, 11 square leagues, in Colusi county, granted May 18th, 1846, by Pio Pico to M. Diaz; claim filed August 30th, 1852, rejected by the Commission October 31st, 1854, and by the District Court March 15th, 1858.
- 312, 36, S. D., 513. Lewis T. Burton, claimant for Bolsa de Chemisal, in San Luis Obispo county, granted May 11th, 1837, by Juan B. Alvarado to Francisco Quijada; claim filed August 30th, 1852, rejected by the Commission December 5th, 1853, confirmed by the District Court December 21st, 1855, and appeal dismissed February 24th, 1857; containing 14,335 acres.
- 313, 347, N. D. Juan C. Galindo, claimant for Mission of Santa Clara, in Santa Clara county, granted June 10th, 1846, by José Maria del Ray (priest); claim filed August 30th, 1852, rejected by the Commission June 12th, 1855, and confirmed by the District Court October 21st, 1857.
- 314, 74, S. D., 130. Miguel Abila, claimant for San Miguelito, 2 square leagues, in San Luis Obispo county, granted April 29th, 1846, by Pio Pico to M. Abila; claim filed August 31st, 1852, and rejected by the Commission December 13th, 1853.

- 315, 70, N. D.; 199, S. D., (sent to N. D.) 298. Maria Antonio Pico *et al.*, heirs of Simeon Castro, claimants for Punta del Año Nuevo, 4 square leagues, in Santa Cruz county, granted May 27th, 1842, by Juan B. Alvarado to Simeon Castro; claim filed August 31st, 1852, confirmed by the Commission December 13th, 1853, by the District Court December 4th, 1856, and appeal dismissed April 2d, 1856; containing 17,763.15 acres. Patented.
- 316, 12, S. D., 283. José del Carmen Lugo, *et al.*, claimants for San Bernardino, 8 square leagues, in San Bernardino county, granted June 21st, 1842, by Juan B. Alvarado to José del Carmen Lugo, José Maria Lugo, Vicente Lugo and Diego Sepulveda; claim filed August 31st, 1852, confirmed by the Commission February 21st, 1853, by the District Court December 7th, 1855, and appeal dismissed February 18th, 1857; containing 35,509.41 acres.
- 317, 316, S. D., 528. Jonathan R. Scott and Benjamin Hays, claimant for La Cañada, 2 square leagues, in Los Angeles county, granted May 12th, 1843, by Manuel Micheltorena to Ygnacio Coronel; claim filed September 1st, 1852, confirmed by the Commission April 3d, 1855, by the District Court February 16th, 1857, and appeal dismissed June 4th, 1856; containing 5,832.10 acres.
- 318, 305, S. D., 71. Jacoba Feliz, claimant for San Francisco, in Santa Barbara and Los Angeles counties, granted January 22d, 1839, by Juan B. Alvarado to Antonio del Valle; claim filed September 2d, 1852, confirmed by the Commission January 2d, 1855, and appeal dismissed June 8th, 1857; containing 48,813.58 acres.
- 319, 86, N. D., 387. John Bidwell, claimant for Los Ulpinos, 4 square leagues, in Solano county, granted November 20th, 1844, by Manuel Micheltorena to J. Bidwell; claim filed September 3d, 1852, confirmed by the Commission January 2d, 1855, by the District Court October 29th, 1855, and appeal dismissed March 21st, 1857; containing 17,726.44 acres.
- 320, 331, S. D. Robert B. Neligh, claimant for 6 square leagues, granted April 4th, 1846, by Pio Pico to José Castro; claim filed September 3d, 1852, confirmed by the Commission May 8th, 1855, by the District Court October 5th, 1859.
- 321, 359, N. D., 389. Joseph L. Folsom and Anna Maria Sparks, claimants for Rio de los Americanos, 8 square leagues, in Sacramento county, granted October 8th, 1844, by Manuel Micheltorena to Guillermo A. Leidesdorff; claim filed September 4th, 1852, confirmed by the Commission June 12th, 1855, by the District Court February 23d, 1857, and further appeal dismissed April 30th, 1857; containing 35,521.36 acres.

- 322, 207, S. D. Maria Antonia de la Guerra y Lataillade, claimant for Las Huertas, 1,300 varas square, in Santa Barbara county, granted July 26th, 1844, by Manuel Micheltorena to Francisco, Lnis and Raymundo; claim filed September 4th, 1852, rejected by the Commission September 26th, 1844, and by the District Court June 3d, 1857.
- 323, 177, N. D. Julins Martin, claimant for part of Entre Napa or Rinconda de los Carnero, 1 mile square, in Solano county, granted May 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed September 4th, 1852, rejected by the Commission September 19th, 1854, confirmed by the District Court September 7th, 1856, and appeal dismissed May 15th, 1857; containing 2,557.68 acres. Patented.
- 324, 83, S. D. José Antonio de la Guerra y Carrillo, claimant for Los Alamos, in Santa Barbara county, granted March 9th, 1839, by Juan B. Alvarado to J. A. de la Guerra y Carrillo; claim filed September 7th, 1852, confirmed by the Commission January 17th, 1854, by the District Court January 7th, 1856, and appeal dismissed February 3d, 1857; containing 48,803.38 acres.
- 325, 84, S. D., 468. George W. Hamley, claimant for Guejito y Cañada de Palomia, 3 square leagues, in San Diego county, granted September 20th, 1845, by Pio Pico to José Maria Orosio; claim filed September 7th, 1852, confirmed by the Commission January 24th, 1854, by the District Court September 26th, 1855, and appeal dismissed February 5th, 1857.
- 326, 186, N. D., 363. William Forbes, claimant for La Laguna de los Gentiles or Caslamayome, 8 square leagues, in Sonoma county, granted March 20th, 1844, by Manuel Micheltorena to Eugenio Montenegro; claim filed September 7th, 1852, and rejected by the Commission September 26th, 1854.
- 327, 118, S. D., 58. Anastasio Carrillo, claimant for Punta de la Concepcion, in Santa Barbara county, granted May 10th, 1837, by Juan B. Alvarado to A. Carrillo; claim filed September 7th, 1852, rejected by the Commission February 14th, 1854, confirmed by the District Court October 20th, 1855, and appeal dismissed February 5th, 1857; containing 24,992.04 acres.
- 328, 20, S. D., 475. Anastasio Carrillo, claimant for Cieneguita, 400 varas square, in Santa Barbara county, granted October 10th, 1845, by Pio Pico to A. Carrillo; claim filed September 7th, 1852, confirmed by the Commission March 14th, 1853, and by the District Court January 12th, 1857.
- 329, 85, S. D., 222. Gil Ybarra, claimant for Rincon de la Brea, 1 square league, in Los Angeles county, granted February 23d, 1841, by Juan B. Alvarado to G. Ybarra; claim filed September 9th, 1852, confirmed by the Commission December 20th, 1852, by the District Court October 11th, 1855, and appeal dismissed February 24th, 1857; containing 4,452.59 acres.

- 330, 226, S. D. Victoria Dominguez *et al.*, heirs of José Antonio Estudillo, claimants for Otay, 1 square league, in San Diego county, granted March 24th, 1829, by José M. Echeandia to J. A. Estudillo; claim filed September 9th, 1852, confirmed by the Commission December 19th, 1854, and appeal dismissed June 8th, 1857.
- 331, 22, S. D., 453. Henry Dalton, claimant for San Francisquito, 2 square leagues, in Los Angeles county, granted May 26th, 1845, by Pio Pico to H. Dalton; claim filed September 10th, 1852, confirmed by the Commission April 11th, 1853, rejected by the District Court December 3d, 1855, decree reversed by the U. S. Supreme Court, and claim confirmed, in 22 Howard, 436.
- 332, 195, S. D., 325. José Joaquin Ortega *et al.*, claimants for Valle de Pamo, 4 square leagues, in San Diego county, granted November 25th, 1843, by Manuel Micheltorena to J. J. Ortega and Eduardo Stokes; claim filed September 10th, 1852, rejected by the Commission September 19th, 1854, and confirmed by the District Court February 8th, 1858.
- 333, 332, S. D., 168. Charles M. Weber, claimant for Cañada de San Felipe y Las Animas, 2 square leagues, in Santa Clara county, granted August 17th, 1839, by Manuel Jimeno to Tomas Boun; claim filed September 11th, 1852, confirmed by the Commission May 8th, 1855, by the District Court January 21st, 1857, and appeal dismissed March 4th, 1858; containing 8,787.80 acres.
- 334, 80, N. D. Joseph P. Thompson, claimant for part of Entre Napa, 1 square league, in Napa county, granted May 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed September 11th, 1852, confirmed by the Commission December 13th, 1853, by the District Court January 14th, 1856, and appeal dismissed September 2d, 1857.
- 335, 217, N. D., 452. Cayetano Juarez, claimant for Yokaya, 8 square leagues, in Mendocino county, granted May 24th, 1845, by Pio Pico to C. Juarez; claim filed September 11th, 1852, and rejected by the Commission November 7th, 1854.
- 336, 104, N. D., 23. Juan José Gonzales, claimant for San Antonio or El Pescadero, three-fourths square league, in Santa Cruz county, granted December 24th, 1833, by José Figneroa to J. J. Gonzales; claim filed September 11th, 1852, confirmed by the Commission January 31st, 1854, by the District Court October 29th, 1855, and decree affirmed by the U. S. Supreme Court in 22 Howard, 161; containing 3,282.22 acres.
- 337, 152, N. D. Mariano G. Vallejo, claimant for part of Entre Napa, 300 varas square, in Napa county, granted May 9th, 1836, by Mariano Chico to Nico-

las Higuera ; claim filed September 11th, 1852, rejected by the Commission January 27th, 1854, and for failure of prosecution appeal dismissed April 21st, 1856.

338, 30, S. D., 426. David W. Alexander and Francis Mellns, claimants for Providencia, 1 square league, in Los Angeles county, granted March 23d, 1843, by Manuel Micheltoarena to Vicente de la Osa ; claim filed September 11th, 1852, and confirmed by the Commission October 18th, 1853.

339, 194, S. D., 335. Samuel Carpenter, claimant for Santa Gertrudes, 5 square leagues, in Los Angeles county, granted May 22d, 1834, by José Figueroa to Josefa Cota de Nieto ; claim filed September 11th, 1852, confirmed by the Commission September 12th, 1854, by the District Court January 21st, 1857, and appeal dismissed March 4th, 1858.

340, 132, N. D., 294. Charles Fossat, claimant for Los Capitancillos, three-fourths square league, in Santa Clara county, granted September 1st, 1842, by Juan B. Alvarado to Justo Larios ; claim filed September 13th, 1852, confirmed by the Commission February 28th, 1854, by the District Court August 17th, 1857, decree reversed by the U. S. Supreme Court and cause remanded, 20 Howard, 413, and decision of the U. S. Supreme Court on the survey, 21 Howard, 445 ; containing 3,360.48 acres.

341, 203, S. D., 390, 545. Luis Vignes, claimant for Pauba, 6 square leagues, in San Diego county, granted November 9th, 1844, by Manuel Micheltoarena to V. Morago, and February 4th, 1846, by Pio Pico, to Vicente Moraga and Luis Arenas ; claim filed September 13th, 1852, confirmed by the Commission May 2d, 1854, by the District Court February 7th, 1857, and appeal dismissed March 1st, 1858 ; containing 26,597.96 acres. Patented.

342, 6, S. D. 398. Luis Vignes, claimant for Temecula, 6 square leagues, in San Diego county, granted December 14th, 1844, by Manuel Micheltoarena to Feliz Valdez ; claim filed September 13th, 1852, rejected by the Commission March 14th, 1854, confirmed by the District Court September 21st, 1855, and appeal dismissed October 18th, 1855 ; containing 26,608.94 acres. Patented.

343, 86, S. D., 240, 436. Henry Dalton, claimant for Santa Anita, 3 square leagues, in Los Angeles county, granted provisionally April 16th, 1841, by Juan B. Alvarado, and March 31st, 1845, finally by Pio Pico, to Perfecto Hugo Reid ; claim filed September 14th, 1852, confirmed by the Commission January 17th, 1854, by the District Court October 24th, 1855, and appeal dismissed February 23d, 1857 ; containing 13,319.06 acres.

344, 265, S. D., 1, 91. Maria Antonio Mechado, claimant for Los Virgenes, 2 square leagues, in Los Angeles county, granted April 6th, 1837, by Juan B. Alva-

rado to José Maria Dominguez; claim filed September 15th, 1852, confirmed by the Commission November 7th, 1854, by the District Court February 23d, 1857, and appeal dismissed March 4th, 1858.

- 345, 173, S. D., 157. Manuel Garfias, claimant for San Paseual, $3\frac{1}{2}$ square leagues, in Los Angeles county, granted November 28th, 1843, by Manuel Micheltorena to M. Garfias; claim filed September 16th, 1852, confirmed by the Commission April 25th, 1854, by the District Court March 6th, 1856, and appeal dismissed February 23d, 1857; containing 13,693.93 acres.
- 346, 161, S. D., 425. Abel Stearns, claimant for La Laguna, 3 square leagues, in San Diego county, granted June 7th, 1844, by Manuel Micheltorena to Julian Mauriquez; claim filed September 18th, 1852, confirmed by the Commission February 14th, 1854, by the District Court February 14th, 1856, and appeal dismissed February 24th, 1857.
- 347, 217, S. D., 386. F. P. F. Temple and Juan Matias Sanchez, claimants for La Merced, 1 square league, in Los Angeles county, granted October 8th, 1844, by Manuel Micheltorena to Casilda Soto; claim filed September 18th, 1852, confirmed by the Commission October 14th, 1854, by the District Court December 29th, 1856, and appeal dismissed March 4th, 1858; containing 2,363.75 acres.
- 348, 339, S. D. William Cary Jones, claimant for San Luis Rey and Pala, 12 square leagues, in San Diego county, granted May 18th, 1846, by Pio Pico to Antonio José Scott and José Antonio Pico; claim filed September 20th, 1852, confirmed by the Commission June 12th, 1855, and by the District Court April 1st, 1861.
- 349, 297, N. D. Leo Norris, claimant for part of San Ramon, 1 square league, in Contra Costa county, granted August 1st, 1834, by José Figueroa to José Maria Amador; claim filed September 20th, 1852, confirmed by the Commission August 1st, 1854, and by the District Court September 10th, 1857; containing 4,450.94 acres.
- 350, 156, N. D., 432. Thomas S. Page, claimant for Cotate, 4 square leagues, in Sonoma county, granted July 7th, 1844, by Manuel Micheltorena to Juan Castañeda; claim filed September 21st, 1852, confirmed by the Commission August 27th, 1854, by the District Court January 14th, 1856, and appeal dismissed March 21st, 1857; containing 17,238.60 acres. Patented.
- 351, 17, S. D. Juan Temple, claimant for Los Cerritos, 5 square leagues, in Los Angeles county, granted May 22d, 1834, by José Figueroa to Manuela Nieto; claim filed September 21st, 1852, confirmed by the Commission April 11th, 1853, by the District Court February 28th, 1857, and appeal dismissed January 12th, 1857.

- 352, 82, N. D. Francisco Sanchez, claimant for San Pedro, 2 square leagues, in San Mateo county, granted January 26th, 1839, by Juan B. Alvarado to F. Sanchez; claim filed September 22d, 1852, confirmed by the Commission December 13th, 1853, and appeal dismissed March 20th, 1857; containing 8,926.46 acres.
- 353, 169, S. D., 37, 402. Jacob P. Leese, claimant for Punta de Pinos, described by boundaries, in Monterey county, granted May 24th, 1833, by José Figueroa to José María Armenta, and October 4th, 1844, by Manuel Micheltoarena to José Abrego; claim filed September 22d, 1852, confirmed by the Commission June 13th, 1854, and February 8th, 1855.
- 354, 269, N. D., 217. Candelario Miramontes, claimant for Arroyo de los Pilarcitos, 1 square league, in Santa Clara county, granted January 2d, 1841, by Juan B. Alvarado to C. Miramontes; claim filed September 22d, 1852, confirmed by the Commission February 6th, 1855, by the District Court February 16th, 1857, and appeal dismissed March 21st, 1857; containing 4,424.12 acres.
- 355, 67, S. D. Salvador Espinoza, claimant for Bolsa de las Escorpinas, 2 square leagues, in Monterey county, granted October 7th, 1837, by Juan B. Alvarado to S. Espinoza; claim filed September 22d, 1852, confirmed by the Commission December 28th, 1853, by the District Court September 24th, 1855, and appeal dismissed February 24th, 1857; containing 6,415.96 acres.
- 356, 42, S. D., 376. Francisco Arce, claimant for Santa Ysabel, 4 square leagues, in San Luis Obispo county, granted May 12th, 1844, by Manuel Micheltoarena to F. Arce; claim filed September 22d, 1852, rejected by the Commission December 13th, 1853, and confirmed by the District Court January 12th, 1857.
- 357, 184, N. D. Andres Pico, claimant for Moquelamo, 11 square leagues, in Calaveras county, granted June 6th, 1846, by Pio Pico to A. Pico; claim filed September 22d, 1852, rejected by the Commission September 26th, 1854, confirmed by the District Court April 24th, 1857, decree reversed by the U. S. Supreme Court and cause remanded for further evidence, in 22 Howard, 406.
- 358, 89, N. D., 259. Salvador Castro, claimant for part of San Gregorio, 1 square league, in Santa Cruz county, granted April 6th, 1839, by Juan B. Alvarado to Antonio Buelna; claim filed September 22d, 1852, rejected by the Commission December 27th, 1853, confirmed by the District Court January 14th, 1856, and appeal dismissed July 23d, 1857; containing 4,439.31 acres. Patented.
- 359, 350, N. D. José Antonio Alvisu, claimant for Cañada de Verde y Arroyo

de la Purisima, 2 square leagues, in Santa Cruz county, granted April 25th, 1838, by Juan B. Alvarado to José Maria Alvisu; claim filed September 22d, 1852, confirmed by the Commission July 10th, 1855, by the District Court March 9th, 1857, decision of the U. S. Supreme Court as to the right of appeal, 20 Howard, 261, and decree of confirmation affirmed by the U. S. Supreme Court, 23 Howard, 318; containing 8,905.58 acres.

360, 23, S. D., 380. José Maria Aguila, claimant for Cañada de los Nogales, one-half square league, in Los Angeles county, granted August 30th, 1844, by Manuel Micheltorena to J. M. Aguila; claim filed September 25th, 1852, confirmed by the Commission April 11th, 1853, by the District Court January 21st, 1856, and appeal dismissed February 21st, 1857.

361, 513, S. D., 196, 203. Juan Bandini, claimant for Jurupa, 7 square leagues, in San Bernardino county, granted September 28th, 1838, by Juan B. Alvarado to J. Bandini; claim filed September 25th, 1852, confirmed by the Commission October 17th, 1854, and by the District Court April 5th, 1861.

362, 120, S. D., 214. Isaac J. Sparks, claimant for Pismo, 2 square leagues, in San Luis Obispo county, granted November 18th, 1840, by Manuel Jimeno to José Ortega; claim filed September 29th, 1852, confirmed by the Commission March 21st, 1854, by the District Court December 24th, 1856, and appeal dismissed March 1st, 1858; containing 8,838.89 acres.

363, 69, S. D., 321. Isaac J. Sparks, claimant for Huasna, 5 square leagues, in San Luis Obispo county, granted December 8th, 1843, by Manuel Micheltorena to I. J. Sparks; claim filed September 29th, 1852, confirmed by the Commission March 21st, 1854, by the District Court January 8th, 1857, and appeal dismissed March 1st, 1858; containing 21,422.08 acres.

364, 121, S. D. Henry Dalton, claimant for Azusa, 3 square leagues, in San Bernardino county, 2 leagues granted by Juan B. Alvarado, one under the name of San José to Ignacio Palomares and Ricardo Vejar April 15th, 1837, with another to same grantees by Luis Arenas under the name of Azusa March 14th, 1840, and a third one by Manuel Jimeno to Luis Arenas November 8th, 1841; claim filed September 29th, 1852, confirmed by the Commission January 21st, 1854, by the District Court March 6th, 1855, and appeal dismissed June 4th, 1857; containing 27,151.327 acres.

365, 122, S. D. Ygnacio Palomares, claimant for part of San José, 2 square leagues, in San Bernardino county, granted April 15th, 1837, by Juan B. Alvarado to Y. Palomares; claim filed September 29th, 1852, confirmed by the Commission January 31st, 1854, by the District Court February 4th, 1856, and appeal dismissed February 23d, 1857.

366, 420, N. D. Andres Castellero, claimant for the quicksilver mine New Alma-

den, formerly called Santa Clara, discovered by him in 1845, in Santa Clara county, with two leagues of land granted to him by the President of Mexico, May 23d, 1846. Possession of the mine was given by the Alcalde, Antonio Maria Pico, December 13th, 1845, with 3,000 varas of land in all directions from the mouth of the mine. Claim filed September 30th, 1852. The Commission, on the eighth of January, 1856, confirmed the grant of 3,000 varas, and rejected all other claims. On the ground of fraud, the United States, on the twenty-ninth of October, 1858, obtained an injunction from the United States Circuit Court to stop the working of the mine. On the eighth of January, 1861, the District Court, rejecting all claims to land, confirmed the mining rights, with seven pertinencias for mining purposes: and all shadow of fraud having been dispelled, the injunction was dissolved, on the twenty-sixth of January, 1861. [The pertinencia varies from 112½ to 200 varas square, according to the inclination of the vein.]

- 367, 157, N. D. Gervasio Arguello, Executor of the heirs of José Dario Arguello, claimants for Las Pulgas, described by boundaries, in San Mateo county, granted in 1795, by Diego Borica to José Dario Arguello; claim filed September 30th, 1852, rejected by the Commission August 1st, 1854, and for failure of prosecution appeal dismissed April 21st, 1856.
- 368, 305, S. D., 519. Benj. D. Wilson *et als.*, claimants for San José de Buenos Ayres, 1 square league, in Los Angeles county, granted February 24th, 1843, by Manuel Micheltorena to Maximo Alanis; claim filed October 2d, 1852, confirmed by the Commission February 20th, 1855, by the District Court February 18th, 1857, and appeal dismissed June 4th, 1857; containing 4,438.69 acres.
- 369, 123, S. D., 184. Agustin Machado *et al.*, claimants for Ballona, 1 square league, in Los Angeles county, granted November 27th, 1839, by Juan B. Alvarado to Agnstiu Machado *et al.*; claim filed October 2d, 1852, confirmed by the Commission February 14th, 1854, by the District Court December 19th, 1855, and appeal dismissed January 28th, 1857; containing 13,919.90 acres.
- 370, 214, S. D. Leon Victor Prudhomme, Administrator, claimant for Cucamonga, 3 square leagues, in San Bernardino county, granted April 16th, 1839, by Juan B. Alvarado to Tibureio Tapia; claim filed October 2d, 1852, rejected by the Commission October 17th, 1854, and confirmed by the District Court December 31st, 1856.
- 371, 309, S. D. Anacleto Lestrade, claimant for Rosa de Castillo, described by boundaries, in Los Angeles county, granted June 25th, 1831, by Manuel Vittoria to Juan Ballestero; claim filed October 2d, 1852, rejected by the Commission April 3d, 1855, and for failure of prosecution appeal dismissed December 17th, 1856.

- 372, 353, S. D. Januario Abila, claimant for Las Cienegas, 1 square league, in Los Angeles county, granted in 1823, by José de la Guerra y Noriega and Manuel Micheltorena to Francisco Abila; claim filed October 4th, 1852, confirmed by the Commission June 26th, 1853, and appeal dismissed June 8th, 1857; containing 4,439.05 acres.
- 373, 87, S. D., 61. Pio Pico *et al.*, claimants for Paso de Bartolo Viejo, 2 square leagues, in Los Angeles county, granted June 12th, 1835, by José Figueroa to Juan Crispin Perez; claim filed October 4th, 1852, confirmed by the Commission December 27th, 1853, by the District Court February 4th, 1856, and appeal dismissed February 24th, 1857.
- 374, 46, S. D., 236. Andres Duarte, claimant for Azusa, 1½ square leagues, in Los Angeles county, granted May 10th, 1841, by Juan B. Alvarado to A. Duarte; claim filed October 6th, 1852, confirmed by the Commission November 4th, 1853, by the District Court September 19th, 1855, and appeal dismissed February 23d, 1857; containing 6,595.62 acres.
- 375, 124, S. D., 464. Agustin Olvera, claimant for Cuyamaca, 11 square leagues, in San Diego county, granted August 11th, 1845, by Pio Pico to A. Olvera; claim filed October 6th, 1852, rejected by the Commission April 4th, 1854, and confirmed by the District Court March 15th, 1858.
- 376, 235, S. D., 257. Daniel Sexton, claimant for 1,000 varas square, in Los Angeles county, granted November 5th, 1841, by Manuel Jimeno to José Maria Ramirez; claim filed October 6th, 1852, confirmed by the Commission October 10th, 1854, by the District Court December 28th, 1856, and appeal dismissed March 4th, 1858.
- 377, 259, S. D. Daniel Sexton, claimant for 500 varas square, in Los Angeles county, granted May 19th, 1842, by Juan B. Alvarado to Vicente de la Osa; claim filed October 6th, 1852, confirmed by the Commission November 14th, 1854, by the District Court February 27th, 1856, and appeal dismissed February 24th, 1857.
- 378, 343, S. D. Eulogio de Celis, claimant for Mission of San Fernando, 14 square leagues, in Los Angeles county, granted June 17th, 1846, by Pio Pico to E. de Celis; claim filed October 7th, 1852, confirmed by the Commission July 3d, 1855, and appeal dismissed March 15th, 1858; containing 121,619.24 acres.
- 379, 292, N. D.; 392 S. D., (sent to the Southern District February 23d, 1857) 458. Vicente de la Osa *et al.*, claimants for Encino, 1 square league, in Los Angeles county, granted July 8th, 1845, by Pio Pico to Ramon, Francisco and Roque; claim filed October 8th, 1852, and confirmed by the Commission March 20th, 1855.

- 380, 378, S. D. Juan Bandini, claimant for Cajon de Muncupiahe, described by boundaries, in Los Angeles county, granted December 18th, 1839, by Juan B. Alvarado to J. Bandini; claim filed October 8th, 1852, rejected by the Commission January 8th, 1856, and for failure of prosecution appeal dismissed December 22d, 1856.
- 381, 125, S. D., 382, 394. Bruno Abila, claimant for Aguage del Centinela, one-half square league, in Los Angeles county, granted September 14th, 1844, by Mannel Micheltorena to Ygnacio Machado; claim filed October 8th, 1852, confirmed by the Commission March 21st, 1854, and by the District Court February 21st, 1856.
- 382, 126, S. D. Bernardo Yorba, claimant for La Sierra, 4 square leagues, in San Bernardino county, granted June 15th, 1846, by Pio Pico to B. Yorba; claim filed October 9th, 1852, rejected by the Commission February 14th, 1854, and confirmed by the District Court January 22d, 1857.
- 383, 88, S. D., 195. Maria de Jesus Garcia *et al.*, claimant for Los Nogales, 1 square league, in San Bernardino county, granted March 13th, 1840, by Juan B. Alvarado to José de la Cruz Linares; claim filed October 9th, 1852, confirmed by the Commission January 17th, 1854, by the District Court January 16th, 1857, and appeal dismissed March 4th, 1858; containing 464.72 acres.
- 384, 297, S. D. Bernardo Yorba, claimant for El Rincon, 1 square league, in San Bernardino county, granted April 8th, 1839, by Juan B. Alvarado to Juan Bandini; claim filed October 9th, 1852, confirmed by the Commission February 13th, 1855, and by the District Court February 11th, 1857; containing 4,431.47 acres.
- 385, 127, S. D., 270, 544. John Roland and Julian Workman, claimants for La Puente, described by boundaries, in Los Angeles and San Bernardino counties, granted July 22d, 1845, by Pio Pico to J. Roland and Julian Workman; claim filed October 9th, 1852, confirmed by the Commission April 4th, 1854, and by the District Court February 24th, 1857; containing 48,790.55 acres.
- 386, 164, N. D. Sebastian Peralta and José Hernandez, claimants for Rincónada de los Gatos, 1½ square leagues, in Santa Clara county, granted May 21st, 1840, by Juan B. Alvarado to S. Peralta and J. Hernandez; claim filed October 9th, 1852, confirmed by the Commission August 8th, 1854, by the District Court March 10th, 1856, and appeal dismissed March 13th, 1856; containing 6,631.44 acres. Patented.
- 387, 89, S. D., 24. Bernardo Yorba, claimant for Cañada de Santa Ana, 3 square leagues, in Los Angeles county, granted August 1st, 1834, by José Figuer-

roa to B. Yorba; claim filed October 9th, 1852, confirmed by the Commission January 24th, 1854, by the District Court October 9th, 1855, and appeal dismissed February 23d, 1857; containing 13,328.53 acres.

- 388, 128, S. D., 141. Ricardo Vejar, claimant for part of San José, described by boundaries, in San Bernardino county, granted April 15th, 1837, and March 14th, 1840, by Juau B. Alvarado to R. Vejar, Ignacio Palomares and Luis Arenas; claim filed October 9th, 1852, confirmed by the Commission January 31st, 1854, by the District Court February 4th, 1856, and appeal dismissed February 21st, 1857; containing 22,720.28 acres.
- 389, 90, S. D., 140. Juan Sanchez, claimant for Santa Clara or El Norte, described by boundaries, in Santa Barbara county, granted May 6th, 1837, by Juau B. Alvarado to J. Sanchez; claim filed October 9th, 1852, confirmed by the Commission January 24th, 1854, by the District Court January 19th, 1857, and appeal dismissed March 4th, 1858; containing 13,988.91 acres.
- 390, 320, N. D., 18. Joaquin Ysidro Castro, Administrator, claimant for San Pablo, 4 square leagues, in Contra Costa county, 3 leagues granted by José Figueroa, June 12th, 1834, to Francisco Castro, deceased, and to his heirs, and on the 13th the surplus lands to Joaquin Ysidro Castro and the heirs of Francisco Castro; claim filed October 9th, 1852, confirmed by the Commission April 17th, 1855, by the District Court February 24th, 1858, and appeal dismissed March 10th, 1858; containing 19,394.40 acres.
- 391, 167, S. D. Enrique Abila, claimant for Tajauta, 1 square league, in Los Angeles county, granted July 5th, 1843, by Manuel Micheltoarena to Anastasio Abila; claim filed October 11th, 1852, confirmed by the Commission August 22d, 1854, by the District Court May 10th, 1856, and by the U. S. Supreme Court; containing 3,559.86 acres.
- 392, 129, S. D., 461. Urbano Odon and Manuel *et al.*, claimants for El Escorpion, 1½ square leagues, in Los Angeles county, granted August 7th, 1845, by Pio Pico to U. Odon and Manuel; claim filed October 11th, 1852, confirmed by the Commission April 25th, 1854, by the District Court May 6th, 1859.
- 393, 406, N. D., 329. Angel and Maria Chabolla, heirs of Anastasio Chabolla, claimants for Sanjon de los Moquelumnes, 8 square leagues, in Sacramento and San Joaquin counties, granted January 24th, 1844, by Manuel Micheltoarena to A. Chabolla; claim filed October 16th, 1852, rejected by the Commission January 24th, 1854, and September 4th, 1855, confirmed by the District Court May 10th, 1857, and by the U. S. Supreme Court; containing 35,509.97 acres.
- 394, 337, S. D., 438. Juan Foster, claimant for Potrcros de San Juan Capistrano,

in Los Angeles and San Bernardino counties, granted April 5th, 1845, by Pio Pico to J. Foster; claim filed October 16th, 1852, confirmed by the Commission June 26th, 1855, by the District Court February 21st, 1857, and appeal dismissed June 4th, 1857; containing 1,167.74 acres.

- 395, 228, S. D., 288, 541. Andres Ybarra, claimant for Los Encinitos, 1 square league, in San Diego county, granted July 3d, 1842, by Juan B. Alvarado to A. Ybarra; claim filed October 16th, 1852, confirmed by the Commission October 31st, 1854, by the District Court October 16th, 1855, and appeal dismissed February 24th, 1857; containing 4,431.03 acres.
- 396, 250, S. D., 437. Juan Foster, claimant for Mission Vieja or La Paz, in Los Angeles county, granted April 4th, 1845, by Pio Pico to Agustin Olvera; claim filed October 16th, 1852, confirmed by the Commission October 31st, 1854, by the District Court February 21st, 1857, and appeal dismissed June 4th, 1857; containing 46,432.65 acres.
- 397, 243, S. D., 439. Juan Matias Sanchez, claimant for Potrero Grande, 1 square league, in Los Angeles county, granted April 8th, 1845, by Pio Pico to Manuel Antonio; claim filed October 18th, 1852, confirmed by the Commission October 24th, 1854, by the District Court December 29th, 1856, and appeal dismissed March 4th, 1858; containing 4,431.96 acres. Patented.
- 398, 273, S. D. Mannel Dominguez *et al.*, claimants for San Pedro, 10 square leagues, in Los Angeles county, granted December 31st, 1822, to Juan José Dominguez; claim filed October 19th, 1852, confirmed by the Commission October 17th, 1854, by the District Court December 20th, 1856, and appeal dismissed June 1st, 1857; containing 43,119.13 acres. Patented.
- 399, 130, S. D., 285. Juan Abila *et al.*, claimants for El Niguel, 3 square leagues, in Los Angeles county, granted June 21st, 1842, by Juan B. Alvarado to J. Abila *et al.*; claim filed October 19th, 1852, confirmed by the Commission April 25th, 1854, by the District Court February 25th, 1856, and appeal dismissed February 24th, 1857.
- 400, 372, S. D. Andres Pico *et al.*, claimants for Los Coyotes, 10 square leagues, in Los Angeles county, granted in 1784, by Pedro Fajes to Manuel Nieto, and May 22d, 1834, by José Figueroa to Juan José Nieto, heir of Manuel Nieto; claim filed October 20th, 1852, confirmed by the Commission September 25th, 1855, and by the District Court February 18th, 1857; containing 56,979.72 acres.
- 401, 355, S. D., 181. Andres Pico *et al.*, claimants for La Habra, 1½ square leagues, in Los Angeles county, granted October 22d, 1839, by Manuel Jimeno to Mariano R. Roldan; claim filed October 20th, 1852, confirmed by

the Commission July 3d, 1855, by the District Court February 18th, 1857, and appeal dismissed March 4th, 1858; containing 6,698.57 acres.

- 402, 208, S. D. Ramon Yorba *et al.*, claimants for one-half of Las Bolsas, described by boundaries, in Los Angeles county, granted in 1784, by Pedro Fajes to Manuel Nieto, and May 22d, 1834, by José Figueroa to Catarina Ruiz, widow of M. Nieto; claim filed October 20th, 1852, confirmed by the Commission September 26th, 1854, by the District Court February 17th, 1857, and appeal dismissed March 4th, 1858; containing 34,486.13 acres. (See No. 459.)
- 403, 381, S. D. Julio Berdugo *et al.*, claimants for San Rafael, 8 square leagues, in Los Angeles county, granted October 20th, 1784, by Pedro Fajes, and confirmed by Borica January 12th, 1798, to José Maria Berdugo; claim filed October 21st, 1852, confirmed by the Commission September 11th, 1855, and appeal dismissed June 4th, 1857.
- 404, 290, S. D. Abel Stearns, claimant for Alamitos, 6 square leagues, in Los Angeles county, granted in 1784, by Pedro Fajes to Manuel Nieto, and May 22d, 1834, by José Figueroa to Juan José Nieto, heir of M. Nieto; claim filed October 21st, 1852, confirmed by the Commission February 13th, 1855, by the District Court February 23d, 1857, and appeal dismissed March 4th, 1857; containing 17,789.79 acres.
- 405, 205, S. D., 244. Joaquin Ruiz, claimant for La Bolsa Chica, 2 square leagues, in Los Angeles county, granted July 1st, 1841, by Juan B. Alvarado to J. Ruiz; claim filed October 21st, 1852, confirmed by the Commission September 26th, 1854, by the District Court February 13th, 1857, and appeal dismissed June 4th, 1857; containing 8,107.46 acres.
- 406, 185, S. D., 279. José Sepulveda, claimant for San Joaquin, 11 square leagues, in Los Angeles county, being La Cienega de las Ranas, granted April 15th, 1837, and an augmentation granted May 13th, 1842, by Juan B. Alvarado to J. Sepulveda; claim filed October 22d, 1852, confirmed by the Commission April 25th, 1854, by the District Court December 11th, 1856, and appeal dismissed January 21st, 1858; containing 48,803.16 acres.
- 407, 367, S. D., 493. Pio Pico, claimant for Jamual, 2 square leagues, in San Diego county, granted April 20th, 1831, by Manuel Vittoria to Pio Pico; claim filed October 22d, 1852, rejected by the Commission April 25th, 1855, and by the District Court March 5th, 1858.
- 408, 62, S. D. Antonio Valenzuela and Juan Alvitre, claimants for Potrero de la Mission Vieja de San Gabriel, 1,000 varas by 500, in Los Angeles county, granted November 9th, 1844, by Manuel Micheltorena to J. Alvitre and A. Valenzuela; claim filed October 23d, 1852, confirmed by the Com-

mission December 13th, 1853, by the District Court January 25th, 1856, and appeal dismissed February 24th, 1857.

409, 131, S. D. Francisco Higuera *et al.*, claimants for Rincon de los Bueyes, three-fifths square league, in Los Angeles county, granted December 7th, 1821, by José de la Guerra y Noriega, and July 10th, 1843, by Manuel Micheltorena, to Bernardo Higuera; claim filed October 23d, 1852, rejected by the Commission February 28th, 1854, and confirmed by the District Court April 16th, 1861.

410, 363, S. D. Juan Foster, claimant for Mission of San Juan Capistrano, in Los Angeles county, granted December 6th, 1845, by Pio Pico to J. Foster; claim filed October 23d, 1852, confirmed by the Commission July 17th, 1855, and appeal dismissed February 1st, 1858.

411, 238, S. D., 295. Juan Maria Marron, claimant for Agua Hedionda, 3 square leagues, in San Diego county, granted August 10th, 1842, by Juan B. Alvarado to J. M. Marron; claim filed October 23d, 1852, confirmed by the Commission October 24th, 1854, by the District Court October 6th, 1855, and appeal dismissed February 24th, 1859; containing 13,311.01 acres.

412, 216, S. D., 247. Juan Foster, claimant for Trabuco, 5 square leagues, in Los Angeles county, 2 leagues provisionally granted February 16th, 1841, and finally July 31st, 1841, by Juan B. Alvarado to Santiago Arguello *et al.*, and 3 leagues granted to Juan Foster by Pio Pico April 21st, 1846; claim filed October 23d, 1852, confirmed by the Commission September 26th, 1854, by the District Court February 21st, 1857, and appeal dismissed February 11th, 1858; containing 22,184.47 acres.

413, 229, S. D. William Workman, claimant for Cajon de los Negros, 3 square leagues, in Los Angeles county, granted June 15th, 1846, by Pio Pico to Ygnacio Coronel; claim filed October 23d, 1852, and rejected by the Commission December 12th, 1854.

414, 374, S. D. Josefa Montalva *et al.*, claimants for Temascal, described by boundaries, in San Bernardino county, granted by José Maria Echeandia to Leandro Serano; claim filed October 26th, 1852, and rejected by the Commission September 18th, 1855.

415, 132, S. D. Michael White, claimant for San Gabriel, 500 varas square, in Los Angeles county, granted March 27th, 1845, by Pio Pico to M. White; claim filed October 26th, 1852, confirmed by the Commission February 28th, 1854, by the District Court December 21st, 1855, and appeal dismissed February 24th, 1857.

- 416, 133, S. D., 350. Maria Ignacio Berdugo, claimant for De los Felis, 1½ square leagues, in Los Angeles county, granted March 22d, 1843, by Manuel Micheltorena to M. I. Berdugo; claim filed October 26th, 1852, confirmed by the Commission February 28th, 1854, by the District Court January 13th, 1857, and appeal dismissed March 4th, 1858.
- 417, 134, S. D. Lugardo Agnilar and Pascuala Garcia, his wife, claimants for 500 varas by 250, near San Gabriel, in Los Angeles county, granted May 15th, 1843, by Manuel Micheltorena to Manuel Dolivera; claim filed October 26th, 1852, confirmed by the Commission February 28th, 1854, by the District Court March 3d, 1856, and appeal dismissed February 24th, 1857.
- 418, 135, S. D. Rafael Valenzuela *et al.*, claimants for 466 varas by 264, near San Gabriel, in Los Angeles county, granted May 16th, 1843, by Manuel Micheltorena to Prospero Valenzuela; claim filed October 26th, 1852, confirmed by the Commission February 28th, 1854, and appeal dismissed February 1st, 1858.
- 419, 136, S. D., 476. Juan Silvas, claimant for 500 varas by 250, near San Gabriel, in Los Angeles county, granted May 15th, 1843, by Manuel Micheltorena to Manuel Dolivera; claim filed October 26th, 1852, confirmed by the Commission March 14th, 1854, by the District Court February 24th, 1857, and appeal dismissed March 4th, 1858.
- 420, 137, S. D. Santiago Rios or Riva, claimant for 300 varas square, near San Juan Capistrano, in Los Angeles county, granted July 5th, 1843, by Manuel Micheltorena to S. Rios; claim filed October 26th, 1852, confirmed by the Commission February 28th, 1854, by the District Court March 4th, 1856, and appeal dismissed February 23d, 1857.
- 421, 186, S. D. Teodocio Yorba, claimant for Lomas de Santiago, 4 square leagues, in Los Angeles county, granted May 26th, 1846, by Pio Pico to Teodocio Yorba; claim filed October 26th, 1852, confirmed by the Commission August 15th, 1854, by the District Court December 11th, 1856, and appeal dismissed January 21st, 1858.
- 422, 386, S. D. City of Los Angeles, claimant for 16 square leagues, granted May 26th, 1781, to Pueblo de los Angeles; claim filed October 26th, 1852, confirmed by the Commission February 5th, 1856, and appeal dismissed February 1st, 1858; containing 17,172.37 acres.
- 423, 193, S. D. Concepcion Nieto *et al.*, claimants for Santa Gertrudes, 5 square leagues, in Los Angeles county, granted in 1784, by Pedro Fajes to Manuel Nieto, and May 22d, 1834, by José Figueroa to Josefa Cota, widow of A. M. Nieto, heir of M. Nieto; claim filed October 28th, 1852, and rejected by the Commission September 12th, 1854.

- 424, 138, S. D., 530. Michael White, claimant for 200 varas square, near San Gabriel, in Los Angeles county, granted May 15th, 1843, by Manuel Micheltorena to Emilio Joaquin; claim filed October 28th, 1852, rejected by the Commission February 28th, 1854, and appeal dismissed for failure of prosecution January 7th, 1860.
- 425, 139, S. D., 434. Andrew J. Courtney and Wife, claimants for 700 varas by 400, near San Gabriel, in Los Angeles county, granted March 15th, 1845, by Pio Pico to Ramon Valencia *et al.*; claim filed October 28th, 1852, confirmed by the Commission February 28th, 1853, by the District Court December 17th, 1855, and appeal dismissed January 24th, 1857; containing 49.29 acres.
- 426, 162, S. D., 496. Domingo Yorba, claimant for Cañada de San Vicente, 3 square leagues, in San Diego county, granted January 25th, 1846, by Pio Pico to Juan Lopez; claim filed October 29th, 1852, confirmed by the Commission May 21st, 1854, and appeal dismissed February 1st, 1858.
- 427, 376, S. D., 532. Tomas Sanchez *et al.*, claimants for La Cienega or Paso de la Tigera, six-sevenths of 1 square league, in Los Angeles county, granted May 16th, 1843, by Manuel Micheltorena to Vicente Sanchez; claim filed October 29th, 1852, confirmed by the Commission July 10th, 1855, by the District Court January 27th, 1857, and appeal dismissed January 21st, 1858.
- 428, 183, S. D., 560. Agustin Olvera, claimant for Los Alamos y Agua Caliente, 6 square leagues, in Los Angeles county, granted May 27th, 1846, by Pio Pico to Francisco Lopez *et al.*; claim filed October 29th, 1852, rejected by the Commission August 15th, 1854, and confirmed by the District Court December 13th, 1856.
- 429, 170, S. D., 547. José Maria Flores, claimant for La Liebre, 11 square leagues, in Santa Barbara county, granted April 21st, 1846, by Pio Pico to J. M. Flores; claim filed October 30th, 1852, rejected by the Commission May 2d, 1854, and confirmed by the District Court February 11th, 1857.
- 430, 60, S. D., 148. Gabriel Ruiz *et al.*, claimants for Calleguas, described by boundaries, in Santa Barbara county, granted May 10th, 1847, by Juan B. Alvarado to José Pedro Ruiz; claim filed November 1st, 1852, confirmed by the Commission November 4th, 1853, by the District Court December 3d, 1855, and appeal dismissed February 23d, 1857; containing 9,998.29 acres.
- 431, 31, S. D., 274, 558. José Serano, claimant for Cañada de los Alisos, 2 square league, in Los Angeles county, part granted May 3d, 1842, by Juan B. Alvarado, and May 27th, 1846, additional extent by Pio Pico, to J. Serano; claim filed November 1st, 1852, confirmed by the Commission Octo-

ber 21st, 1853, by the District Court December 6th, 1855, and appeal dismissed February 23d, 1857; containing 10,668.81 acres.

432, 33, S. D., 444. Jorge Morillo *et al.*, claimants for Potrero de Felipe Lago, described by boundaries, in Los Angeles county, granted April 18th, 1845, by Pio Pico to Teodoro Romero *et al.*; claim filed November 1st, 1852, confirmed by the Commission October 18th, 1853, by the District Court September 19th, 1855, and appeal dismissed February 23d, 1857; containing 2,042.81 acres.

433, 182, S. D., 231. Isaac Williams, claimant for Santa Ana del Chino, 5 square leagues, in San Bernardino county, granted March 26th, 1841, by Juan B. Alvarado to Antonio Maria Lago; claim filed November 1st, 1852, confirmed by the Commission April 23d, 1854, by the District Court January 13th, 1857, and appeal dismissed March 4th, 1858.

434, 335, S. D., 522. Isaac Williams, claimant for addition to Santa Ana del Chino, 3 square leagues, in San Bernardino county, granted April 1st, 1843, by Manuel Micheltorena to I. Williams; claim filed November 1st, 1852, confirmed by the Commission May 8th, 1855, by the District Court January 13th, 1857, and appeal dismissed March 4th, 1858.

435, 55, S. D. Pablo Apis, claimant for Temecula, one by one-half league, granted May 7th, 1845, by Pio Pico to P. Apis; claim filed November 1st, 1852, rejected by the Commission November 15th, 1853, and confirmed by the District Court February 21st, 1857.

436, 91, S. D., 60. Santiago E. Arguello, claimant for Melyo, in San Diego county and Lower California, granted November 25th, 1833, by José Figueroa to S. E. Arguello; claim filed November 1st, 1852, rejected by the Commission December 20th, 1853, and by the District Court September 20th, 1855.

437, 66, S. D. Magdalena Estudillo, claimant for Otay, 2 square leagues, in San Diego county, granted May 4th, 1846, by Pio Pico to M. Estudillo; claim filed November 1st, 1852, confirmed by the Commission November 4th, 1853, by the District Court February 11th, 1856, and appeal dismissed February 24th, 1857; containing 6,657.98 acres.

438, 163, S. D., 572. Antonio Coronel, claimant for Sierra de los Verdugos, described by boundaries, in Los Angeles county, granted June 15th, 1846, by Pio Pico to A. Coronel; claim filed November 1st, 1852, rejected by the Commission January 27th, 1854, and appeal dismissed for failure of prosecution October 24th, 1855.

439, 189, S. D., 393. José A. Serano *et al.*, claimants for Pauma, 3 square

leagues, granted November 9th, 1844, by Mannel Micheltorena to J. A. Serano *et al.*; claim filed November 1st, 1852, confirmed by the Commission May 16th, 1854, and appeal dismissed February 1st, 1858.

440, 140, S. D. Juan P. Ontiveros, claimant for San Juan Cajon de Santa Ana, granted May 13th, 1837, by Juan B. Alvarado to J. P. Ontiveros; claim filed November 1st, 1852, rejected by the Commission April 11th, 1854, and confirmed by the District Court December 4th, 1855.

441, 92, S. D., 72, 463, 529. Juliana Lopez Osuna, claimant for San Diegnito, 2 square leagues, 1 granted in 1840 or 1841, by Juan B. Alvarado, and the other August 11th, 1845, by Pio Pico to Juan Maria Osuna; claim filed November 1st, 1852, rejected by the Commission January 24th, 1854, and confirmed by the District Court March 4th, 1858.

442, 48, S. D., 17. Apolinaria Lorenzana, claimant for Jamacho, 2 square leagues, in San Diego county, granted April 27th, 1840, by Juan B. Alvarado to A. Lorenzana; claim filed November 1st, 1852, confirmed by the Commission November 4th, 1853, by the District Court February 4th, 1856, and appeal dismissed February 23d, 1857; containing 8,881.16 acres.

443, 269, S. D., 521. Louis Roubideau, claimant for San Jacinto and San Gregorio, granted March 22d, 1843, by Manuel Micheltorena to Santiago Johnson; claim filed November 1st, 1852, rejected by the Commission January 2d, 1855, and confirmed by the District Court February 29th, 1860.

444, 199, N. D. Andres Pico, claimant for Arroyo Seco, 11 square leagues, in Sacramento, Amador and San Joaquin counties, granted May 8th, 1840, by Juan B. Alvarado to Teodocio Yorba; claim filed November 1st, 1852, rejected by the Commission February 27th, 1855, confirmed by the District Court April 21st, 1856, and by the U. S. Supreme Court; containing 48,857.52 acres.

445, 141, S. D., 330. Isidor Reyes *et al.*, claimants for Voca de Santa Monica, 1½ square leagues, in Los Angeles county, granted June 19th, 1839, by Manuel Jimeno to Francisco Marques *et al.*; claim filed November 1st, 1852, confirmed by the Commission April 4th, 1854, by the District Court December 10th, 1856, and appeal dismissed March 4th, 1858.

446, 93, S. D., 565. José Loreto Sepulveda *et al.*, claimants for Los Palos Verdes, in Los Angeles county, granted June 3d, 1846, by Pio Pico to J. L. Sepulveda *et al.*; claim filed November 1st, 1852, confirmed by the Commission December 20th, 1853, by the District Court December 10th, 1856, and appeal dismissed March 4th, 1858; containing 31,629.13 acres.

- 447, 63, S. D., 443. José Ledesma, claimant for 400 by 200 varas, near San Gabriel, in Los Angeles county, granted June 3d, 1846, by Pio Pico to José Ledesma; claim filed November 1st, 1852, confirmed by the Commission December 6th, 1853, by the District Court February 11th, 1857, and appeal dismissed March 4th, 1858.
- 448, 94, S. D. Francisco Sales, claimant for 50 by 250 varas, near San Gabriel, in Los Angeles county, granted April 18th, 1845, by Pio Pico to F. Sales; claim filed November 1st, 1852, confirmed by the Commission January 17th, 1854, by the District Court February 20th, 1856, and appeal dismissed February 24th, 1857.
- 449, 95, S. D., 563. Simeon, (Indian) claimant for 500 by 200 varas, near San Gabriel, in Los Angeles county, granted June 1st, 1846, by Pio Pico to Simeon; claim filed November 1st, 1852, confirmed by the Commission December 13th, 1853, by the District Court February 18th, 1856, and appeal dismissed February 24th, 1857.
- 450, 51, S. D. Andres Duarte *et al.*, claimants for 25 by 40 varas, near San Gabriel, in Los Angeles county, granted April 25th, 1846, by Pio Pico to A. Duarte *et al.*; claim filed November 1st, 1852, rejected by the Commission December 6th, 1853, and appeal dismissed for failure of prosecution October 25th, 1855.
- 451, 192, S. D., 205. Lorenzo Soto, claimant for Los Vallecitos, 2 square leagues, in San Diego county, granted April 22d, 1840, by Juan B. Alvarado to José Maria Alvarado; claim filed November 4th, 1852, rejected by the Commission September 5th, 1854, confirmed by the District Court February 11th, 1856, and appeal dismissed February 24th, 1857.
- 452, 142, S. D. Francisco Maria Alvarado, claimant for Los Peñasquitos, 2 square leagues, in San Diego county, granted June 15th, 1823, by Luis Antonio Arguello to Francisco Maria Ruiz; claim filed November 4th, 1852, rejected by the Commission February 21st, 1854, and confirmed by the District Court March 4th, 1858.
- 453, 362, S. D. Vicenta Sepulveda, claimant for La Sierra, 4 square leagues, in Los Angeles county, granted June 15th, 1846, by Pio Pico to V. Sepulveda; claim filed November 4th, 1852, confirmed by the Commission July 10th, 1855, by the District Court February 19th, 1857, and appeal dismissed March 4th, 1858.
- 454, 341, S. D., 267. Maria Antonia Snook, claimant for San Bernardo, 4 square leagues, in San Diego county, 2 leagues granted February 16th, 1842, by Juan B. Alvarado, and 2 leagues May 26th, 1845, by Pio Pico, to José Francisco Snook; claim filed November 5th, 1852, confirmed by the Com-

mission June 5th, 1855, by the District Court January 6th, 1857, and appeal dismissed March 4th, 1858; containing 17,763.07 acres.

455, 171, S. D. Victoria Reid, claimant for Huerta de Quati or Cuati, in Los Angeles county, granted October 12th, 1838, by Juan B. Alvarado to V. Reid; claim filed November 5th, 1852, rejected by the Commission August 1st, 1854, confirmed by the District Court October 4th, 1855, and appeal dismissed January 3d, 1857; containing 128.26 acres. Patented.

456, 354, S. D., 87, 337. Antonio Ygnacio Abila, claimant for Sansal Redondo, 5 square leagues, in Los Angeles county, granted May 20th, 1837, by Juan B. Alvarado to A. Y. Abila; claim filed November 5th, 1852, confirmed by the Commission June 19th, 1855, by the District Court January 28th, 1857, and appeal dismissed March 4th, 1858.

457, 143, S. D., 186. Francisco Sepulveda, claimant for San Vicente and Santa Monica, 4 square leagues, in Los Angeles county, granted December 20th, 1839, by Juan B. Alvarado to F. Sepulveda; claim filed November 5th, 1852, confirmed by the Commission April 25th, 1854, by the District Court February 23d, 1857, and appeal dismissed January 21st, 1858.

458, 360, S. D. Casildo Aguilar *et al.*, claimants for La Cienega or Paso de la Tigera, 1 square league, in Los Angeles county, granted May 16th, 1843, by Manuel Micheltorena to Vicente Sanchez; claim filed November 6th, 1852, confirmed by the Commission July 10th, 1855, by the District Court January 27th, 1857, and appeal dismissed June 4th, 1857.

459, 302, S. D. José Justo Morillo *et al.*, claimants for Las Bolsas, 7 square leagues, in Los Angeles county, granted in 1784, by Pedro Fajes to Manuel Nieto, and May 22d, 1834, by José Figueroa to Catarina Ruiz, widow of Manuel Nieto; claim filed November 6th, 1852, rejected by the Commission February 13th, 1855, and confirmed by the District Court February 17th, 1857. (See No. 402.)

460, 246, S. D., 491. Juan Foster, claimant for Rancho de la Nacion, 6 square leagues, in San Diego county, granted December 11th, 1845, by Pio Pico to J. Foster; claim filed November 6th, 1852, confirmed by the Commission October 24th, 1854, by the District Court February 21st, 1857, and appeal dismissed June 4th, 1857; containing 26,631.94 acres.

461, 329, S. D., 562. Juan Foster, claimant for Valle de San Felipe, 3 square leagues, in San Diego county, granted May 30th, 1846, by Pio Pico to Felipe Castillo; claim filed November 6th, 1852, confirmed by the Commission May 22d, 1855, by the District Court February 21st, 1857, and appeal dismissed June 4th, 1857; containing 9,972.08 acres.

- 462, 312, S. D., 536. Heirs of Juan B. Alvarado, claimants for Rineon del Diablo, 3 square leagues, in San Diego county, granted May 18th, 1843, by Manuel Micheltorena to J. B. Alvarado; claim filed November 8th, 1852, confirmed by the Commission May 22d, 1855, by the District Court January 6th, 1857, and appeal dismissed March 4th, 1858; containing 12,653.77 acres.
- 463, 263, S. D. Lonis Ronbidean, claimant for Jurupa, 7 square leagues, in San Bernardino county, granted September 28th, 1838, by Juan B. Alvarado to Juan Bandini; claim filed November 8th, 1852, confirmed by the Commission December 19th, 1854, and appeal dismissed June 8th, 1857.
- 464, 52, S. D., 215. David W. Alexander *et al.*, claimants for Tajunga, 1½ square leagues, in Los Angeles county, granted December 5th, 1840, by Juan B. Alvarado to Pedro Lopez *et al.*; claim filed November 8th, 1852, rejected by the Commission November 4th, 1853, confirmed by the District Court February 28th, 1856, and appeal dismissed February 23d, 1857; containing 6,660.71 acres.
- 465, 50, S. D. David W. Alexander, claimant for Cahuenga, one-fourth square league, in Los Angeles county, granted May 5th, 1843, by Manuel Micheltorena to José Miguel Triunfo; claim filed November 8th, 1852, rejected by the Commission November 15th, 1853, by the District Court December 13th, 1856, and appeal dismissed by stipulation February 1857.
- 466, 54, S. D. Mannel Sales Tasion, claimant for 400 by 200 varas, near San Gabriel, in Los Angeles county, granted April 18th, 1845, by Pio Pico to M. S. Tasion; claim filed November 8th, 1852, rejected by the Commission November 15th, 1853, and appeal dismissed for failure of prosecution October 24th, 1855.
- 467, 58, S. D., 446. José Domingo, claimant for 350 by 250 varas, near San Gabriel, in Los Angeles county, granted April 1845, by Pio Pico to Felipe; claim filed November 8th, 1852, and confirmed by the Commission November 22d, 1853.
- 468, 47, S. D., 486. Victoria Reid, claimant for 200 varas square, near San Gabriel, in Los Angeles county, granted May 15th, 1843, by Manuel Micheltorena to Serafin de Jesus; claim filed November 8th, 1852, rejected by the Commission November 29th, 1853, and appeal dismissed for failure of prosecution October 24th, 1855.
- 469, 144, S. D., 155. Silvestre de la Portilla, claimant for Valle de San José, 4 square leagues, in San Diego county, granted April 16th, 1836, by Gutierrez to S. de la Portilla; claim filed November 8th, 1852, rejected by the Commission February 21st, 1854, and confirmed by the District Court February 23d, 1857.

- 470, 346, S. D., 559. Bernardo Yorba *et al.*, heirs of Antonio Yorba, claimants for Santiago de Santa Ana, 11 square leagues, in Los Angeles county, granted July 1st, 1810, by José Figueroa to Antonio Yorba; claim filed November 9th, 1852, confirmed by the Commission July 10th, 1855, and appeal dismissed June 8th, 1857; containing 62,516.57 acres.
- 471, 251, S. D., 449. Maria Juana de los Angeles, claimant for Cnea, one-half square league, in San Diego county, granted May 7th, 1845, by Pio Pico to M. J. de los Angeles; claim filed November 9th, 1852, confirmed by the Commission October 10th, 1854, and by the District Court December 24th, 1856.
- 472, 65, S. D., 241. Raimundo Olivas *et al.*, claimants for San Miguel, $1\frac{1}{2}$ square leagues, in Santa Barbara county, granted July 6th, 1841, by Juan B. Alvarado to R. Olivas *et al.*; claim filed November 9th, 1852, confirmed by the Commission November 22d, 1853, by the District Court February 27th, 1856, and appeal dismissed February 23d, 1857; containing 4,693.91 acres.
- 473, 219, S. D., 542. José Ramon Malo, claimant for Santa Rita, 3 square leagues, in Santa Barbara county, granted April 12th, 1845, by Pio Pico to J. R. Malo; claim filed November 9th, 1852, confirmed by the Commission October 17th, 1854, and by the District Court December 24th, 1856.
- 474, 294, S. D., 160. Maria Jesus Olivera de Cota *et al.*, claimants for Santa Rosa, $3\frac{1}{2}$ square leagues, in Santa Barbara county, $1\frac{1}{2}$ leagues granted July 30th, 1839, by Mannel Jimeno, and 2 leagues November 19th, 1845, by Pio Pico, to Francisco Cota; claim filed November 9th, 1852, confirmed by the Commission February 27th, 1855, and by the District Court December 24th, 1856.
- 475, 272, S. D. Tomas Sanchez Colima, claimant for Santa Gertrudes, in Santa Barbara county, granted by Pio Pico to Antonio Maria Nieto; claim filed November 9th, 1852, confirmed by the Commission December 12th, 1854, and appeal dismissed June 8th, 1857.
- 476, 389, S. D. José Ramon Malo, claimant for La Purisima, in Santa Barbara county, granted December 6th, 1845, by Pio Pico to J. R. Malo; claim filed November 10th, 1852, confirmed by the Commission December 31st, 1855, and appeal dismissed June 8th, 1857; containing 14,927.62 acres.
- 477, 248, S. D. Juan Gallardo, claimant for 2,000 varas square, in Los Angeles county, granted July 17th, 1838, by Juan B. Alvarado to J. Gallardo; claim filed November 11th, 1852, rejected by the Commission November 14th, 1854, and confirmed by the District Court January 20th, 1860.
- 478, 371, S. D. Maria Rita Baldez, claimant for San Antonio, 1 square league,

in Los Angeles county, granted in 1831, by Juan B. Alvarado to M. R. Baldez *et al.*; claim filed November 11th, 1852, confirmed by the Commission September 25th, 1855, and appeal dismissed June 8th, 1857.

- 479, 318, S. D. Manuel Antonio Rodriguez de Poli, claimant for Mission of San Buenaventura, 12 square leagues, in Santa Barbara county, granted June 8th, 1846, by Pio Pico to José Arnas; claim filed November 11th, 1852, confirmed by the Commission May 15th, 1855, and by the District Court April 1st, 1861.
- 480, 313, S. D. Nasario Dominguez, claimant for one-sixth of San Pedro, in Los Angeles county, granted in 1822, by P. V. de Sola to Cristobal Dominguez; claim filed November 12th, 1852, rejected by the Commission January 2d, 1855, and appeal dismissed in District Court by claimant December 21st, 1857.
- 481, 145, S. D., 459. Andres *et al.*, claimants for Gnajome, 1 square league, in San Diego county, granted July 19th, 1845, by Pio Pico to Andres and José Mannel; claim filed November 12th, 1852, confirmed by the Commission February 7th, 1854, by the District Court December 17th, 1855, and appeal dismissed February 24th, 1857; containing 2,219.41 acres.
- 482, 146, S. D. Emigdio Vejar, claimant for Boea de la Playa, 1½ square leagues, in Los Angeles county, granted May 7th, 1846, by Pio Pico to E. Vejar; claim filed November 12th, 1852, confirmed by the Commission March 14th, 1854, and appeal dismissed February 1st, 1858.
- 483, 147, S. D. Leon V. Prudhomme, claimant for Topanga Malibu, 3 square leagues, in Los Angeles county, granted in 1804, by José Joaquín de Arrellaga to José Bartolomé Tapia; claim filed November 12th, 1852, rejected by the Commission March 21st, 1854, and by the District Court in 1860.
- 484, 249, S. D. William Williams *et al.*, claimants for Valle de las Viejas, 4 square leagues, in San Diego county, granted May 1st, 1846, by Pio Pico to Ramon Asuna *et al.*; claim filed November 13th, 1852, rejected by the Commission December 26th, 1854, and appeal dismissed for failure of prosecution February 11th, 1856.
- 485, 264, S. D. Cave J. Conts, claimant for La Soledad, 1 square league, in San Diego county, granted April 13th, 1838, by Carlos Antonio Carrillo, styling himself Provisional Governor, to Francisco Maria Alvarado; claim filed November 13th, 1852, rejected by the Commission January 23d, 1855, and appeal dismissed for failure of prosecution February 11th, 1856.
- 486, 148, S. D., 499. Juan Moreno, claimant for Santa Rosa, 3 square leagues,

in San Diego county, granted January 30th, 1846, by Pio Pico to J. Moreno; claim filed November 13th, 1852, confirmed by the Commission April 4th, 1854, and by the District Court January 15th, 1856.

487, 287, S. D. Antonio José Rocha *et al.*, claimants for La Brea, 1 square league, in Los Angeles county, granted January 6th, 1828, by José Antonio Carrillo to A. J. Rocha *et al.*; claim filed November 15th, 1852, rejected by the Commission March 6th, 1855, and by the District Court August 8th, 1860.

488, 266, S. D., 531. Anacleto Lestrade, claimant for Cañada de los Cochis, 400 varas square, granted August 16th, 1843, by Manuel Micheltoarena to Apolinaria Lorenzana; claim filed December 13th, 1852, confirmed by the Commission December 26th, 1854, and appeal dismissed for failure of prosecution February 1st, 1858.

489, 96, S. D., 537. Arno Maube, claimant for 200 varas square, near San Gabriel, in Los Angeles county, granted May 20th, 1843, by Manuel Micheltoarena to A. Maube; claim filed December 13th, 1852, rejected by the Commission January 17th, 1854, and dismissed for failure of prosecution March 7th, 1860.

490, 138, N. D., 284. Maria Mauuel Valencia, claimant for Boca de Cañada del Pinole, 3 square leagues, in Contra Costa county, granted June 21st, 1842, by Juan B. Alvarado to M. M. Valencia; claim filed December 13th, 1852, rejected by the Commission August 10th, 1854, confirmed by the District Court November 26th, 1854, and by the U. S. Supreme Court; containing 13,353.38 acres.

491, 239, S. D., 314. Pedro C. Carrillo, claimant for Camnlos, 4 square leagues, in Santa Barbara county, granted October 2d, 1843, by Manuel Micheltoarena to Pedro C. Carrillo; claim filed December 13th, 1852, rejected by the Commission November 7th, 1854, and appeal dismissed for failure of prosecution August 10th, 1860.

492, 29, S. D., 395. Raimundo Carrillo, claimant for Nojoqui, 3 square leagues, in Santa Barbara county, granted April 27th, 1843, by Manuel Micheltoarena to R. Carrillo; claim filed December 13th, 1852, confirmed by the Commission October 12th, 1853, by the District Court October 3d, 1855, and appeal dismissed February 24th, 1857; containing 13,284.50 acres.

493, 185, N. D., 441. Hilario Sanchez, claimant for Temalpais or Tamalpais, 2 square leagues, in Marin county, granted November 28th, 1845, by Pio Pico to H. Sanchez; claim filed December 13th, 1852, and rejected by the Commission September 26th, 1854.

- 494, 97, S. D., 55, 163. Crisogono Ayala *et al.*, claimants for Santa Ana, in Santa Barbara county, granted April 14th, 1837, by Juan B. Alvarado to Crisogono Ayala *et al.*; claim filed December 20th, 1852, confirmed by the Commission January 24th, 1854, by the District Court October 9th, 1855, and appeal dismissed February 3d, 1857; containing 21,522.04 acres.
- 495, 67, N. D., 200. Joseph P. Thompson, claimant for part of Napa, 640 acres, in Napa county, granted September 31st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed December 21st, 1852, confirmed by the Commission December 13th, 1853, by the District Court February 13th, 1857, and appeal dismissed April 2d, 1857.
- 496, 209, N. D. José Maria Fuentes, claimant for Potrero, 11 square leagues, in Santa Clara county, granted June 12th, 1843, by Manuel Micheltoarena to J. M. Fuentes; claim filed December 21st, 1852, rejected by the Commission November 21st, 1854, by the District Court August 24th, 1857, and decree affirmed by the U. S. Supreme Court in 22 Howard, 443.
- 497, 183, N. D., 27. Heirs of Juan Reid, claimants for Corte de Madera del Presidio, 1 square league, in Marin county, granted October 2d, 1834, by José Figueroa to Juan Reid; claim filed December 23d, 1852, confirmed by the Commission June 13th, 1854, by the District Court January 14th, 1856, and appeal dismissed April 2d, 1857; containing 4,460.24 acres.
- 498, 236, S. D., 307. Pedro C. Carrillo, claimant for Los Alamos y Agua Caliente, in Los Angeles county, granted October 2d, 1843, by Manuel Micheltoarena to P. C. Carrillo; claim filed December 24th, 1852, rejected by the Commission November 7th, 1854, and appeal dismissed for failure of prosecution August 10th, 1860.
- 499, 253, N. D. John Hendley *et al.*, claimants for Llano de Santa Rosa, 1 square league, in Sonoma county, granted March 20th, 1844, by Manuel Micheltoarena to Joaquin Carrillo; claim filed December 24th, 1852, rejected by the Commission January 23d, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.
- 500, 78, N. D., 200. Lilburn W. Boggs, claimant for part of Napa, 680 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed December 28th, 1852, confirmed by the Commission December 13th, 1853, by the District Court April 14th, 1856, and appeal dismissed April 2d, 1857.
- 501, 149, S. D., 253. Joaquin Estrada, claimant for Santa Margarita, 4 square leagues, in San Luis Obispo county, granted September 28th, 1841, by Manuel Jimeno to J. Estrada; claim filed December 28th, 1852, confirmed by the Commission April 4th, 1854, by the District Court October 3d, 1855,

and appeal dismissed February 5th, 1857; containing 17,734.94 acres. Patented.

502, 101, S. D. Teodoro Gonzales, claimant for Rineon de la Puente del Monte, 7 square leagues, in Monterey county, granted September 20th, 1836, by Gutierrez to T. Gonzales; claim filed December 28th, 1852, confirmed by the Commission February 7th, 1854, by the District Court September 21st, 1855, and appeal dismissed February 24th, 1857; containing 15,218.62 acres.

503, 363, N. D., 293. Maria L. B. Berreyesa *et al.*, claimants for San Vincente, 1 square league, in Santa Clara county, granted August 20th, 1842, by Juan B. Alvarado to José R. Berreyesa; claim filed December 30th, 1852, confirmed by the Commission July 3d, 1855, by the District Court March 13th, 1857, and decree affirmed by the U. S. Supreme Court in 23 Howard, 499; containing 4,438.36 acres.

504, 320, S. D. José Miguel Gomez, claimant for San Simeon, 1 square league, in San Luis Obispo county, granted December 1st, 1842, by Juan B. Alvarado to José Ramon Estrada; claim filed December 31st, 1852, confirmed by the Commission May 8th, 1855, by the District Court January 12th, 1857, and appeal dismissed March 4th, 1858; containing 4,468.81 acres.

505, 27, S. D., 248. Felician Soberanes, claimant for San Lorenzo, 5 square leagues, in Monterey county, granted August 9th, 1841, by Juan B. Alvarado to F. Soberanes; claim filed December 31st, 1852, rejected by the Commission October 25th, 1853, confirmed by the District Court September 24th, 1855, and appeal dismissed February 24th, 1857; containing 21,884.38 acres.

506, 181, N. D. Agustin Bernal, claimant for Santa Teresa, 1 square league, in Santa Clara county, granted July 11th, 1834, by José Figueroa to Joaquin Bernal; claim filed January 3d, 1853, confirmed by the Commission September 5th, 1854, by the District Court August 11th, 1856, and appeal dismissed November 2d, 1858; containing 4,460.03 acres.

507, 8, N. D. H. F. Teschemacher, claimant for Lup Yomi, 14 square leagues, in Napa county, granted September 5th, 1844, by Manuel Micheltorena to Salvador Vallejo *et al.*; claim filed January 5th, 1853, rejected by the Commission December 13th, 1853, confirmed by the District Court June 27th, 1855, decree reversed by the U. S. Supreme Court and case remanded for further evidence, 22 Howard, 392.

508, 256, S. D., 54. Heirs of Domingo Carrillo, claimant for one-half of Las Virgenes, 4 square leagues, in Los Angeles county, granted October 1st, 1834, by José Figueroa to D. Carrillo *et al.*; claim filed January 6th, 1853,

rejected by the Commission November 7th, 1854, and appeal dismissed for failure of prosecution May 7th, 1860.

- 509, 330, N. D., 341. Samuel G. Reed *et al.*, claimants for Rancho del Puerto, 3 square leagues, in Stanislaus county, granted January 20th, 1844, by Manuel Micheltorena to Mariano Hernandez *et al.*; claim filed January 7th, 1853, confirmed by the Commission May 22d, 1855, by the District Court May 6th, 1856, and appeal dismissed March 27th, 1857; containing 13.340.39 acres.
- 510, 168, N. D., 200. Uladislao Vallejo, claimant for part of Napa, 600 yards square, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed January 11th, 1853, rejected by the Commission August 22d, 1854, and appeal dismissed for failure of prosecution April 1st, 1856.
- 511, 349, N. D. Henry Cambuston, claimant for 11 square leagues, in Butte county, granted May 23d, 1846, by Pio Pico to H. Cambuston; claim filed January 14th, 1853, confirmed by the Commission July 10th, 1855, by the District Court March 3d, 1856, decree reversed by the U. S. Supreme Court and case remanded for further hearing, 20 Howard, 59. Claim rejected by the District Court November 9th, 1859.
- 512, 227, S. D. Guadalupe Ortega de Chapman *et al.*, claimants for San Pedro, 1 square league, in Santa Barbara county, granted in 1838, by Juan B. Alvarado to José Chapman; claim filed January 15th, 1853, rejected by the Commission November 21st, 1854, and confirmed by the District Court April 11th, 1861.
- 513, 292, S. D. Francisco Estevan Quintana, claimant for La Vena, 1 square league, in San Luis Obispo county, granted January 14th, 1842, by Juan B. Alvarado to F. E. Quintana; claim filed January 15th, 1853, rejected by the Commission February 27th, 1855, and appeal dismissed for failure of prosecution December 18th, 1856.
- 514, 143, N. D. James Enright, claimant for 2,000 varas square, in Santa Clara county, granted January 6th, 1845, by Manuel Micheltorena to Francisco Garcia; claim filed January 17th, 1853, confirmed by the Commission August 8th, 1854, by the District Court April 26th, 1858, and by the U. S. Supreme Court; containing 710.14 acres.
- 515, 394, N. D. Joseph C. Palmer *et al.*, claimants for Punta de Lobos, 2 square leagues, in San Francisco county, granted June 25th, 1846, by Pio Pico to Benito Diaz; claim filed January 17th, 1853, rejected by the Commission August 14th, 1855, by the District Court December 5th, 1857, and judgment affirmed by the U. S. Supreme Court with costs, 24 Howard, 125.

- 516, 220, N. D., 454. Barcella Bernal, claimant for Embarcadero de Santa Clara, 1,000 varas square, in Santa Clara county, granted June 18th, 1845, by Pio Pico to B. Bernal; claim filed January 17th, 1853, confirmed by the Commission December 12th, 1854, and by the District Court February 23d, 1857.
- 517, 150, S. D., 301. Nicholas A. Den, claimant for Dos Pueblos, 3 square leagues, in Santa Barbara county, granted April 18th, 1842, by Juan B. Alvarado to N. A. Den; claim filed January 18th, 1853, confirmed by the Commission March 14th, 1854, by the District Court December 28th, 1855, and appeal dismissed February 24th, 1857; containing 15,535.33 acres.
- 518, 151, S. D. David Spence, claimant for Llano de Buenavista, 2 square leagues, in Monterey county, granted in 1823, by Luis Antonio Arguello to José Mariano Estrada; claim filed January 18th, 1853, confirmed by the Commission March 14th, 1854, by the District Court January 7th, 1856, and appeal dismissed February 23d, 1857; containing 8,446.23 acres. Patented.
- 519, 152, S. D., 261. José Dolores Ortega, claimant for Cañada del Corral, 2 square leagues, in Santa Barbara county, granted November 5th, 1841, by Manuel Jimeno to J. D. Ortega; claim filed January 19th, 1853, confirmed by the Commission February 21st, 1854, by the District Court February 1st, 1856, and appeal dismissed February 23d, 1857; containing 8,875.76 acres.
- 520, 252, S. D., 570. Daniel Hill, claimant for La Goleta, 1 square league, in Santa Barbara county, granted June 10th, 1846, by Pio Pico to D. Hill; claim filed January 19th, 1853, confirmed by the Commission December 26th, 1854, by the District Court February 8th, 1858, and appeal dismissed May 15th, 1861.
- 521, 153, S. D., 520. Manuel Arguisola, claimant for Temascal, 3 square leagues, in Santa Barbara county, granted March 17th, 1843, by Manuel Micheltoarena to Francisco Lopez *et al.*; claim filed January 19th, 1853, rejected by the Commission April 4th, 1853, and confirmed by the District Court February 20th, 1857.
- 522, 154, S. D., 9. Antonio Maria Ortega *et al.*, claimants for Nuestra Señora del Refugio, 6 square leagues, in Santa Barbara county, granted August 1st, 1834, by José Figueroa to A. M. Ortega *et al.*; claim filed January 19th, 1853, confirmed by the Commission March 14th, 1854, by the District Court December 29th, 1856, and appeal dismissed March 4th, 1858; containing 26,529.30 acres.
- 523, 240, N. D. Hicks and Martin, claimants for Rancho de los Cosumnes, 1 square league, in Sacramento county, granted December 22d, 1844, by

Manuel Micheltorena to Heleno ; claim filed January 21st, 1853, and rejected by the Commission January 23d, 1855.

- 524, 300, N. D., 299. Barbara Soto *et al.*, claimants for San Lorenzo, 1½ square leagues, in Alameda county, granted October 10th, 1842, by Manuel Micheltorena, and January 20th, 1844, by Juan B. Alvarado, to Francisco Soto ; claim filed January 22d, 1853, confirmed by the Commission April 24th, 1855, by the District Court April 23d, 1857, and appeal dismissed April 29th, 1857 ; containing 6,686.33 acres.
- 525, 418, N. D. Bethuel Phelps, claimant for Punta Reyes, 8 square leagues, in Marin county, granted March 17th, 1836, by Nicolas Gutierrez to James Richard Berry ; claim filed January 22d, 1853, confirmed by the Commission August 7th, 1855, by the District Court December 22d, 1857, and appeal dismissed December 22d, 1857.
- 526, 348, S. D. Feliciano Soberanes, claimant for Mission de la Soledad, 2 square miles, in Monterey county, granted January 4th, 1846, by Pio Pico to F. Soberanes ; claim filed January 22d, 1853, confirmed by the Commission July 17th, 1855, and appeal dismissed June 8th, 1857 ; containing 8,899.82 acres.
- 527, 201, S. D. James Blair *et al.*, claimants for Salsipuedes, 8 square leagues, in Santa Cruz county, 2 square leagues granted with conditions November 4th, 1834, by José Figueroa, and final title to 8 square leagues March 1st, 1840, by Juan B. Alvarado, to Manuel Jimeno Casarin ; claim filed January 27th, 1853, confirmed by the Commission May 2d, 1854, and appeal dismissed October 8th, 1857 ; containing 27,662.57 acres. Patented.
- 528, 268, S. D., 150. Luis T. Burton *et al.*, claimants for two-thirds of Jesus Maria, in Santa Barbara county, granted April 8th, 1837, by Juan B. Alvarado to Lucas Olivera *et al.* ; claim filed January 27th, 1853, confirmed by the Commission December 19th, 1854, and appeal dismissed February 1st, 1858 ; containing 42,184.93 acres.
- 529, 155, S. D., 260. James McKinlay, claimant for Moro y Cayueos, 2 square leagues, in San Luis Obispo county, 1 square league granted April 27th, 1842, to Martin Olivera, and the other by Juan B. Alvarado to Vicente Feliz ; claim filed January 28th, 1853, confirmed by the Commission April 4th, 1854, by the District Court December 24th, 1856, and appeal dismissed March 4th, 1858 ; containing 8,845.49 acres.
- 530, 34, S. D., 384. James McKinlay, claimant for San Lucas, 2 square leagues, in Monterey county, granted May 9th, 1842, by Juan B. Alvarado to Rafael Estrada ; claim filed January 28th, 1853, rejected by the Commission De-

cember 13th, 1853, confirmed by the District Court February 21st, 1856, and appeal dismissed February 24th, 1857; containing 3,590.25 acres.

- 531, 270, S. D. Fermiua Espinoza de Perez and Domingo Perez, claimants for Los Gatos or Santa Rita, 1 square league, in Monterey county, granted in 1820, and September 3d, 1837, by Juan B. Alvarado to José Trinidad Espinoza; claim filed January 29th, 1853, confirmed by the Commission January 23d, 1855, by the District Court January 23d, 1857, and appeal dismissed March 4th, 1858; containing 4,424.46 acres.
- 532, 244, S. D., 191. Eusebio Boronda, claimant for Rinconada del Sanjon, $1\frac{1}{2}$ square leagues, in Monterey county, granted February 1st, 1840, by Juan B. Alvarado to E. Boronda; claim filed January 29th, 1853, confirmed by the Commission October 31st, 1854, by the District Court October 16th, 1856, and appeal dismissed February 5th, 1857; containing 2,229.70 acres. Patented.
- 533, 240, S. D., 175. José Manuel Boronda *et al.*, claimants for Los Laureles $1\frac{1}{2}$ square leagues, in Monterey county, granted September 20th, 1839, by Juan B. Alvarado to José M. Boronda and Vicente Blas Martinez; claim filed January 29th, 1853, confirmed by the Commission October 31st, 1854, by the District Court January 7th, 1856, and appeal dismissed February 5th, 1857; containing 6,624.99 acres.
- 534, 156, S. D. Joaquin Carrillo *et al.*, claimants for San Carlos de Jonata, 6 square leagues, in Santa Barbara county, granted September 24th, 1845, by Pio Pico to J. Carrillo *et al.*; claim filed January 29th, 1853, confirmed by the Commission January 31st, 1854, and by the District Court February 7th, 1857; containing 26,631.31 acres.
- 535, 215, S. D., 16. Rafael Estrada, claimant for Rincon de las Salinas, one-half square league, in Monterey county, granted December 2d, 1833, by José Figueroa to Cristina Delgado; claim filed January 29th, 1853, confirmed by the Commission September 26th, 1854, by the District Court January 7th, 1856, and appeal dismissed February 5th, 1857; containing 2,220.02 acres. Patented.
- 536, 349, S. D., 326. José Maria Covarrubias, claimant for Castae, 5 square leagues, in Los Angeles county, granted November 22d, 1843, by Manuel Micheltorena to J. M. Covarrubias; claim filed January 29th, 1853, confirmed by the Commission July 10th, 1855, by the District Court January 21st, 1857, and appeal dismissed March 6th, 1858.
- 537, 230, S. D., 75. Juana Briones de Lugo *et al.*, claimants for Paraje de Sanchez, $1\frac{1}{2}$ square leagues, in Monterey county, granted June 8th, 1839, by Juan B. Alvarado to Francisco Lugo; claim filed January 29th, 1853, con-

firmed by the Commission November 7th, 1854, by the District Court October 16th, 1855, and appeal dismissed February 5th, 1857; containing 6,584.32 acres.

- 538, 369, S. D. José Maria Covarrubias *et al.*, claimants for Mission of Santa Inez, in Santa Barbara county, granted June 15th, 1846, by Pio Pico to J. M. Covarrubias *et al.*; claim filed January 29th, 1853, and rejected by the Commission September 11th, 1855.
- 539, 234, S. D., 135. Maria del Espiritu Santo Carrillo, claimant for Loma del Espiritu Santo, described by boundaries, in Monterey county, granted April 15th, 1839, by Juan B. Alvarado to Maria del Espiritu Santo Carrillo; claim filed January 29th, 1853, rejected by the Commission November 14th, 1854, and appeal dismissed for failure of prosecution February 11th, 1856.
- 540, 222, S. D., 121. Heirs of Felipe Vasquez, claimants for Chamisal, 1 square league, in Monterey county, granted November 17th, 1835, by José Castro to F. Vasquez; claim filed January 31st, 1853, and rejected by the Commission October 24th, 1854.
- 541, 189, N. D.; 174, S. D., (sent to Northern District). Gregorio Briones, claimant for Las Baulines, 2 square leagues, in Marin county, granted February 11th, 1846, by Pio Pico to G. Briones; claim filed January 31st, 1853, confirmed by the Commission May 15th, 1854, by the District Court January 19th, 1857, and appeal dismissed April 2d, 1857; containing 8,911.34 acres.
- 542, 88, N. D. Encarnacion Buelna and heirs of Maria Concepcion V. de Rodriguez, claimants for part of San Gregorio, 3 square leagues, in Santa Cruz county, granted May 2d, 1839, by Juan B. Alvarado to Antonino Buelna; claim filed February 1st, 1853, rejected by the Commission December 27th, 1853, confirmed by the District Court October 29th, 1855, and appeal dismissed July 24th, 1857; containing 13,344.15 acres. Patented.
- 543, 242, S. D. Mayor and Common Council of Santa Barbara, claimants for 8 $\frac{1}{2}$ square leagues, granted, in 1782, to the Pueblo of Santa Barbara; claim filed February 1st, 1853, rejected by the Commission August 1st, 1854, and confirmed by the District Court March 6th, 1861.
- 544, 221, S. D., 275. Mariano Soberanes, claimant for Los Ojitos, 2 square leagues, in Monterey county, granted April 5th, 1842, by Juan B. Alvarado to M. Soberanes; claim filed February 1st, 1853, confirmed by the Commission September 26th, 1854, by the District Court January 7th, 1856, and appeal dismissed February 5th, 1857; containing 8,900.17 acres.
- 545, 181, S. D., 348. Julian Ursua, claimant for La Panocha de San Juan, 5

square leagues, in San Joaquin county, granted February 17th, 1844, by Manuel Micheltorena to J. Ursua; claim filed February 2d, 1853, confirmed by the Commission May 2d, 1854, and by the District Court December 17th, 1856.

546, 373, S. D., 198. José Castro, claimant for San José y Sur Chiquita, 2 square leagues, in Monterey county, granted April 16th, 1839, by Juan B. Alvarado to Marcelino Escobar; claim filed February 2d, 1853, and rejected by the Commission August 28th, 1855.

547, 368, S. D. José Maria Covarrubias, claimant for Isla de Santa Catalina, described by boundaries, in Los Angeles county, granted July 4th, 1846, by Pio Pico to Tomas M. Robbins; claim filed February 3d, 1853, confirmed by the Commission September 25th, 1855, and by the District Court March 1st, 1858.

548, 424, N. D. José Y. Limantour, claimant for 4 square leagues, in San Francisco county, part of the city, supposed to extend south of California street, granted February 27th, 1843, by Manuel Micheltorena to J. Y. Limantour; claim filed February 3d, 1853, confirmed by the Commission January 22d, 1856, and rejected by the District Court October 19th, 1858.

549, 429, N. D. José Y. Limantour, claimant for the Islands of Farrallones, Alcatraz and Yerba Buena, and a tract of 1 square league in Marin county, opposite the Island of Los Angeles, known as Punta del Tiburon, granted December 16th, 1843, by Manuel Micheltorena to J. Y. Limantour; claim filed February 3d, 1853, confirmed by the Commission February 12th, 1856, and rejected by the District Court November 19th, 1858.

550, 328, S. D., 204. John P. Davison, claimant for Santa Paula y Saticoy, 4 square leagues, in Santa Barbara county, granted April 1st, 1843, by Manuel Micheltorena to Manuel Jimeno Casarin; claim filed February 3d, 1853, confirmed by the Commission May 22d, 1855, and appeal dismissed March 4th, 1858; containing 17,733.33 acres.

551, 223, S. D., 238. Mariano Soberanes *et al.*, claimants for San Bernardo, 3 square leagues, in Monterey county, granted June 16th, 1841, by Juan B. Alvarado to M. Soberanes *et al.*; claim filed February 5th, 1853, confirmed by the Commission November 7th, 1854, by the District Court January 14th, 1856, and appeal dismissed February 5th, 1857; containing 13,345.65 acres.

552, 210, S. D., 292. Heirs of Joaquin Soto, claimants for El Piojo, 3 square leagues, in Monterey county, granted August 20th, 1842, by Juan B. Alvarado to Joaquin Soto; claim filed February 5th, 1853, confirmed by the

Commission September 26th, 1854, by the District Court January 19th, 1857, and appeal dismissed March 4th, 1858; containing 13,329.28 acres.

553, 284, S. D., 209. Antonio Olivera, claimant for Casinalia, 2 square leagues, in Santa Barbara county, granted September 12th, 1840, by Juan B. Alvarado to A. Olivera; claim filed February 5th, 1853, confirmed by the Commission March 6th, 1855, and appeal dismissed February 1st, 1858; containing 8,841.21 acres.

554, 356, S. D. Andrew Randall and Fletcher M. Haight, claimants for Cañada de la Segunda, 1 square league, in Monterey county, granted April 4th, 1839, by José Castro to Lazaro Soto; claim filed February 5th, 1853, confirmed by the Commission August 14th, 1855, by the District Court February 5th, 1858, and appeal dismissed February 8th, 1858; containing 4,366.80 acres. Patented.

555, 253, S. D., 316. Andrew Randall, claimant for San Lorenzo, 5 square leagues, in Monterey county, granted November 16th, 1842, by Juan B. Alvarado to Francisco Rico; claim filed February 5th, 1853, confirmed by the Commission December 12th, 1854, by the District Court January 12th, 1857, and appeal dismissed March 4th, 1858; containing 22,264.47 acres.

556, 344, S. D., 289. Francisco Dominguez *et al.*, claimants for San Emidio, 4 square leagues, in Los Angeles county, granted July 14th, 1842, by Juan B. Alvarado to José Antonio Dominguez; claim filed February 5th, 1853, rejected by the Commission December 26th, 1854, and appeal dismissed June 8th, 1857; containing 17,709.79 acres.

557, 190, S. D. Jacob P. Leese, claimant for Rancho de Sausal, 2 square leagues, in Monterey county, granted August 2d, 1834, and August 10th, 1845, by José Figueroa to José Tiburcio Castro; claim filed February 5th, 1853, confirmed by the Commission August 15th, 1854, by the District Court December 18th, 1856, and appeal dismissed March 4th, 1858; containing 10,241.88 acres. Patented.

558, 346, N. D. Charles White, claimant for Arroyo de San Antonio, in Sonoma county, granted August 10th, 1840, by Juan B. Alvarado to Antonio Ortega; claim filed February 7th, 1853, confirmed by the Commission June 26th, 1855, by the District Court August 17th, 1857, decree reversed by the U. S. Supreme Court, and record remitted for further proceedings, 23 Howard, 249.

559, 409, N. D. W. D. M. Howard, claimant for San Mateo, 2 square leagues, in San Mateo county, granted May 5th or 6th, 1846, by Pio Pico to Cayetano Arenas; claim filed February 7th, 1853, confirmed by the Commission September 18th, 1855, and appeal dismissed April 6th, 1857; containing 6,438.80 acres. Patented.

- 560, 352, S. D. Patrick Breen, claimant for 1,500 varas square, in Monterey county, granted April 13th, 1846, by Pio Pico to José Castro; claim filed February 7th, 1853, confirmed by the Commission June 26th, 1855, and appeal dismissed February 1st, 1858; containing 401.25 acres.
- 561, 281, S. D., 525. Michael White, claimant for Musenpiabe, 1 square league, in Los Angeles county, granted April 29th, 1843, by Manuel Micheltorena to M. White; claim filed February 8th, 1853, confirmed by the Commission March 6th, 1855, and appeal dismissed June 8th, 1857.
- 562, 68, S. D., 276. James Watson, claimant for San Benito, 1½ square leagues, in Monterey county, granted April 5th, 1842, by Juan B. Alvarado to Francisco Garcia; claim filed February 9th, 1853, confirmed by the Commission January 17th, 1854, by the District Court February 23d, 1857, and appeal dismissed March 4th, 1857; containing 6,671.08 acres.
- 563, 380, S. D. L. E. Pogue *et al.*, claimants for Point Pinos, 2 square leagues, in Monterey county, granted May 24th, 1833, by José Figueroa to José Maria Armenta; claim filed February 9th, 1853, and rejected by the Commission September 11th, 1855.
- 564, 157, S. D., 151. John C. Gore, claimant for Pescadero, 1 square league, in Monterey county, granted March 3d, 1836, by Nicolas Gutierrez to Fabian Barretto; claim filed February 9th, 1853, rejected by the Commission February 28th, 1854, and confirmed by the District Court January 18th, 1856; containing 1,695.04 acres.
- 565, 361, S. D. Ramona Butron *et al.*, claimants for Natividad, 2 square leagues, in Monterey county, granted November 16th, 1837, by Juan B. Alvarado to M. Butron and N. Alviso; claim filed February 9th, 1853, confirmed by the Commission July 10th, 1855, by the District Court February 23d, 1857, and appeal dismissed March 4th, 1858; containing 8,642.21 acres.
- 566, 100, S. D., 133. Guadalupe Castro, claimant for San Andres, 2 square leagues, in Santa Cruz county, granted November 27th, 1833, by José Figueroa to Joaquin Castro; claim filed February 9th, 1853, confirmed by the Commission February 7th, 1854, by the District Court February 21st, 1857, and appeal dismissed March 4th, 1858; containing 8,911.53 acres.
- 567, 288, S. D., 457. W. S. Johnson *et al.*, claimants for Pleyto, 3 square leagues, in Monterey county, granted July 18th, 1845, by Pio Pico to Antonio Chaves; claim filed February 9th, 1853, rejected by the Commission March 6th, 1855, and confirmed by the District Court February 7th, 1857.
- 568, 332, N. D., 514. Antonio Rodriguez, claimant for San Vicente, 2 square leagues, in Santa Cruz county, granted April 16th, 1839, by Juan B. Alva-

rado to A. Rodriguez; claim filed February 9th, 1853, rejected by the Commission May 8th, 1855, appeal dismissed and cause stricken from the docket February 23d, 1857.

- 569, 278, N. D.; 393, S. D., (sent to the Southern District March 9th, 1857). Vicente Gomez, claimant for Panoche Grande, 4 square leagues, in San Joaquin county, granted in 1844, by Manuel Micheltorena to V. Gomez; claim filed February 9th, 1853, rejected by the Commission March 6th, 1855, confirmed by the Southern District Court June 5th, 1859. In this case, motion was made to review the decree. Pending the motion, the case was taken up on appeal to the U. S. Supreme Court, where the cause was docketed and dismissed. In 23 Howard, 326, the order of the Supreme Court docketing and dismissing cause was vacated and the mandate recalled. Case reopened in District Court March 21st, 1861, and is at issue.
- 570, 158, S. D., 13. Heirs of Gabriel Espinoza *et al.*, claimants for Salinas, 1 square league, granted April 15th, 1836, by Nicolas Gutierrez to G. Espinoza; claim filed February 9th, 1853, rejected by the Commission April 4th, 1854, and confirmed by the District Court February 7th, 1857.
- 571, 306, S. D., 224. Henry Cocks, claimant for San Bernabé, 3 square leagues, in Monterey county, 1 square league granted March 10th, 1841, to Jesus Molina, and 2 square leagues granted January 8th, 1842, by Juan B. Alvarado to Petronillo Rios; claim filed February 9th, 1853, confirmed by the Commission March 20th, 1855, and appeal dismissed June 8th, 1857; containing 13,296.98 acres.
- 572, 298, S. D. Henry Cocks, claimant for one-fourth square league, in Monterey county, granted July 30th, 1840, by Juan B. Alvarado to Esteben Espinoza; claim filed February 9th, 1853, confirmed by the Commission March 20th, 1855, and appeal dismissed June 8th, 1857; containing 1,106.03 acres.
- 573, 159, S. D., 193. James Meadows, claimant for land in Monterey county, granted January 27th, 1840, by Juan B. Alvarado to Antonio Romero; claim filed February 10th, 1853, confirmed by the Commission March 14th, 1854, by the District Court December 30th, 1856, and appeal dismissed January 21st, 1858; containing 4,591.71 acres.
- 574, 342, S. D. Julian Workman *et al.*, claimants for Mission of San Gabriel, in Los Angeles county, granted June 8th, 1846, by Pio Pico to J. Workman and P. Hugo Reid; claim filed February 11th, 1853, rejected by the Commission June 26th, 1855, and appeal dismissed for failure of prosecution December 20th, 1856.
- 575, 176, S. D. John F. Jones *et al.*, claimants for Rio de las Animas, 6 square leagues, in Los Angeles county, granted May 12th, 1846, by Pio Pico to

Leonardo Cota and Julian Chaves; claim filed February 11th, 1853, rejected by the Commission August 1st, 1854, and appeal dismissed for failure of prosecution October 24th, 1855.

576, 165, S. D., 546. Agustin Olvera, claimant for La Cienega, 20 square leagues, in Los Angeles county, granted April 21st, 1846, by Pio Pico to A. Olvera and Narciso Botello; claim filed February 11th, 1853, rejected by the Commission August 1st, 1854, and by the District Court January 26th, 1860.

577, 249, N. D. B. McCombs, claimant for part of Salvador's Rancho, 140 acres, in Napa county, granted January 1st, 1839, by Juan B. Alvarado to Salvador Vallejo; claim filed February 11th, 1853, confirmed by the Commission December 26th, 1854, and by the District Court February 23d, 1857.

578, 231, N. D. Joel P. Walker, claimant for part of Entre Napa, 60 acres, in Napa county, granted May 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed February 11th, 1853, confirmed by the Commission December 26th, 1854, by the District Court December 23d, 1857, and appeal dismissed December 23d, 1857.

579, 212, N. D. Johnson Horrel, claimant for part of Salvador's Rancho, 240 acres in Napa county, granted January 1st, 1839, by Juan B. Alvarado to Salvador Vallejo; claim filed February 11th, 1853, confirmed by the Commission October 17th, 1854, by the District Court March 2d, 1857, and appeal dismissed June 13th, 1857.

580, 171, N. D. Peter D. Bailey, claimant for part of Entre Napa, in Napa county, granted May 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed February 11th, 1853, confirmed by the Commission September 5th, 1854, by the District Court December 23d, 1855, and appeal dismissed December 23d, 1855.

581, 176, N. D. Joseph Mount *et al.*, claimants for part of Entre Napa, in Napa county, granted May 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed February 11th, 1853, confirmed by the Commission September 5th, 1854, and by the District Court February 13th, 1857.

582, 241, N. D. John Love, claimant for part of Salvador's Rancho, 100 acres, in Napa county, granted January 1st, 1839, by Juan B. Alvarado to Salvador Vallejo; claim filed February 11th, 1853, confirmed by the Commission December 26th, 1854, and by the District Court February 23d, 1857.

583, 261, N. D. William Keely, claimant for part of Salvador's Rancho, 40 acres, in Napa county, granted January 1st, 1839, by Juan B. Alvarado to Salvador Vallejo; claim filed February 11th, 1853, confirmed by the Commission January 9th, 1855, and by the District Court February 23d, 1857.

- 584, 222, N. D., 510. Johnson Horrel *et al.*, claimants for Rincon de Musulacon, 2 square leagues, in Mendocino and Sonoma counties, granted May 2d, 1846, by Pio Pico to Francisco Berreyesa; claim filed February 11th, 1853, confirmed by the Commission December 12th, 1854, by the District Court January 14th, 1856, and appeal dismissed April 2d, 1857; containing 8,866.88 acres.
- 585, 172, N. D. Joseph Green, claimant for part of Entre Napa, in Napa county, granted May 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed February 11th, 1853, confirmed by the Commission September 19th, 1854, and by the District Court February 13th, 1857.
- 586, 242, N. D. John Patchell, claimant for part of Entre Napa, in Napa county, granted May 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed February 11th, 1853, confirmed by the Commission January 9th, 1855, and by the District Court February 23d, 1857.
- 587, 244, N. D. Marta Frias de Higuera, claimant for part of Entre Napa, in Napa county, granted May 8th, 1836, by Mariano Chico to Nicolas Higuera; claim filed February 11th, 1853, confirmed by the Commission January 9th, 1855, and by the District Court June 10th, 1858.
- 588, 76, S. D., 455. Pedro Estrada, claimant for La Asuncion, in San Luis Obispo county, granted June 19th, 1845, by Pio Pico to P. Estrada; claim filed February 12th, 1853, confirmed by the Commission January 24th, 1854, by the District Court January 25th, 1856, and appeal dismissed February 24th, 1857; containing 39,224.81 acres.
- 589, 390, S. D. President and Trustees of the City of San Diego, claimants for land granted, in 1769, to the Pueblo of San Diego; claim filed February 14th, 1853, confirmed by the Commission January 27th, 1856, and appeal dismissed June 8th, 1857; containing 48,556.69 acres.
- 590, 276, N. D., 249. Joaquin Moraga, claimant for Laguna de los Palos Colorados, 3 square leagues, in Contra Costa county, granted August 10th, 1841, by Juan B. Alvarado to J. Moraga and Juan Bernal; claim filed February 15th, 1853, confirmed by the Commission January 23d, 1855, by the District Court March 24th, 1856, and appeal dismissed April 8th, 1856; containing 13,318.13 acres.
- 591, 285, S. D., 357. Nicolas Dodero, claimant for Tres Ojos de Agua, 1,300 varas square, in Santa Cruz county, granted March 18th, 1844, by Manuel Micheltorena to N. Dodero; claim filed February 15th, 1853, confirmed by the Commission February 20th, 1855, by the District Court January 18th, 1856, and appeal dismissed February 24th, 1857; containing 176 acres.

- 592, 307, S. D., 105. Juan Hames *et al.*, claimants for Arroyo del Rodco, one by one-fourth square leagues, in Santa Cruz county, granted August 2d, 1834, by José Figueroa to Francisco Rodriguez; claim filed February 15th, 1853, confirmed by the Commission March 27th, 1855, by the District Court March 5th, 1856, and appeal dismissed February 24th, 1857; containing 1,473.07 acres. *
- 593, 343, N. D. Martina Castro, claimant for Shoquel, 1 square league, in Santa Cruz county, granted May 17th, 1834, by José Figueroa, and surplus lands, known as Palo de la Yesca, described by boundaries, granted January 7th, 1844, by Manuel Micheltorena, to M. Castro; claim filed February 16th, 1853, confirmed by the Commission June 26th, 1855, and appeal dismissed March 20th, 1857; containing 32,702.41 acres. Patented.
- 594, 167, N. D., 179. Tiburcio Vasquez, claimant for Corral de Tierra, 1 square league, in San Mateo county, granted October 5th, 1839, by Manuel Jimeno to T. Vasquez; claim filed February 17th, 1853, confirmed by the Commission August 15th, 1854, by the District Court April 18th, 1859, and appeal dismissed June 29th, 1859; containing 4,436.18 acres.
- 595, 247, S. D., 69. José Abrego, claimant for San Francisquito, 2 square leagues, in Monterey county, granted November 9th, 1835, by José Castro to Catalina Manzaneli de Munras; claim filed February 17th, 1853, confirmed by the Commission October 17th, 1854, by the District Court December 19th, 1856, and appeal dismissed January 21st, 1858; containing 8,813.50 acres.
- 596, 220, S. D., 296. Angel Castro *et al.*, claimants for Los Paicines or Cienega de los Paicines, 2 square leagues, in Monterey county, granted October 5th, 1842, by Juan B. Alvarado to Angel Castro; claim filed February 17th, 1853, confirmed by the Commission October 17th, 1854, by the District Court January 28th, 1857, and appeal dismissed June 4th, 1857; containing 8,917.52 acres.
- 597, 323, S. D., 5. Gregorio Tapia, claimant for Aguajito, one-half square league, in Monterey county, granted August 13th, 1835, by José Figueroa to G. Tapia; claim filed February 17th, 1853, rejected by the Commission May 8th, 1855, and confirmed by the District Court February 8th, 1858.
- 598, 270, S. D. Maria Antonia Cruz, claimant for Cañada de los Piñacates, one-fourth square league, in Los Angeles county, granted November 20th, 1835, by José Castro to José Cruz and José Maria Cruz; claim filed February 17th, 1853, rejected by the Commission January 23d, 1855, and appeal dismissed for failure of prosecution February 11th, 1856.
- 599, 202, S. D., 239. Maria Josefa Soberanes, claimant for Los Coches, 24 square leagues, in Monterey county, granted June 14th, 1841, by Juan B. Alvarado

- to M. J. Soberanes ; claim filed February 18th, 1853, rejected by the Commission September 26th, 1854, confirmed by the District Court September 24th, 1855, and appeal dismissed February 24th, 1857; containing 8,794.09 acres.
- 600, 255, S. D. Manuel Castro, claimant for Laguna de Tache, 9 square leagues in Monterey county, granted January 10th, 1846, by Pio Pico to M. Castro; claim filed February 18th, 1853, rejected by the Commission October 17th, 1854, and confirmed by the District Court February 9th, 1858.
- 601, 267, S. D. Jeremiah Clark, claimant for part of Rancho Laguna de Tache, 2 square leagues, in Monterey county, granted January 10th, 1846, by Pio Pico to Manuel Castro; claim filed February 18th, 1853, rejected by the Commission October 17th, 1854, confirmed by the District Court February 9th, 1858. On claimant's motion, case dismissed February 10th, 1858.
- 602, 399, N. D. Francisco Pico, claimant for Las Calaveras, 8 square leagues, granted July 20th, 1846, by Pio Pico to F. Pico; claim filed February 18th, 1853, rejected by the Commission October 16th, 1855, confirmed by the District Court January 9th, 1858, decree reversed by the U. S. Supreme Court and petition to be dismissed, 23 Howard, 321.
- 603, 145, N. D. Elizabeth de Zaldo, claimant for 50 varas square, at the Mission Dolores, granted October 12th, 1842, by Francisco Sanchez to Carlos Moreno; claim filed February 18th, 1853, rejected by the Commission August 9th, 1854, and confirmed by the District Court March 24th, 1856.
- 604, 284, N. D. Stephen Smith, claimant for two 50-vara lots, in San Francisco, granted December 4th, 1845, by Pio Pico to S. Smith; claim filed February 19th, 1853, and rejected by the Commission March 27th, 1855.
- 605, 312, N. D. John Rose *et al.*, claimants for 6 square leagues, in Yuba county, granted in 1844, by Manuel Micheltorena to John Smith; claim filed February 19th, 1853, confirmed by the Commission May 22d, 1855, by the District Court May 4th, 1857, and decree reversed by the U. S. Supreme Court with direction to dismiss the petition, 23 Howard, 262.
- 606, 98, S. D., 164. Maria Antonia Pico de Castro *et al.*, claimant for Bolsa Nueva y Moro Cojo, 8 square leagues, in Monterey county—Moro Coyo, 2 square leagues, granted February 14th, 1825, by Luis Arguello, and Bolsa Nueva, 1 square league, granted by Mariano Chico, May 14th, 1836; lands between the two above tracts, granted November 20th, 1837, by Juan B. Alvarado, to Simeon Castro; regrant of the whole property, being 8 square leagues, to the widow and representatives of S. Castro, September 26th, 1844, by Manuel Micheltorena; claim filed February 19th, 1853, confirmed by the Commission February 7th, 1854, by the District Court January 8th, 1857, and appeal dismissed March 1st, 1858; containing 28,827.78 acres.

607, 350, S. D. Rufina Castro, claimant for one lot 100 by 200 and another 400 varas square, in Monterey county, granted May 19th, 1839, by José Castro to Mariano Castro; claim filed February 19th 1853, and confirmed by the Commission July 3d, 1855.

608, 280, S. D. Blas A. Escarilla, claimant for San Vicente, in Santa Cruz county, granted June 16th, 1846, by Pio Pico to B. A. Escarilla; claim filed February 19th, 1853, confirmed by the Commission January 23d, 1855, by the District Court February 7th, 1857, and appeal dismissed January 7th, 1858.

609, 425, N. D., and 388, S. D. Archbishop Joseph Sadoc Alemany, claimant for the following Missions and land; claim filed February 19th, 1853, confirmed by the Commission December 18th, 1855, appeal dismissed in Northern District March 16th, 1857, and in Southern District March 15th, 1858. [The dates of the foundation of the Missions were furnished by the Reverend Father José Maria de Jesus Gonzalez, of the Mission of Santa Barbara.]

Mission San Diego, in San Diego county, founded under Carlos III, July 16th, 1769; containing 22.24 acres.

Mission San Luis Rey, in San Diego county, founded under Carlos IV, June 13th, 1798; containing 53.39 acres.

Mission San Juan Capistrano, in Los Angeles county, founded under Carlos III, November 10th, 1776; containing 44.40 acres.

Mission San Gabriel Arcangel, in Los Angeles county, founded under Carlos III, September 8th, 1771; containing 190.69 acres. Patented.

Mission San Buenaventura, in Santa Barbara county, founded under Carlos III, March 31st, 1782; containing 36.27 acres.

Mission San Fernando, in Los Angeles county, founded under Carlos IV, September 8th, 1797; containing 76.94 acres.

Mission Santa Barbara, in Santa Barbara county, founded under Carlos III, December 4th, 1786; containing 37.83 acres.

Mission Santa Inez, in Santa Barbara county, founded under Carlos IV, September 17th, 1804; containing 17.35 acres.

Mission La Purisima Concepcion, in Santa Barbara county, founded under Carlos III, December 8th, 1787.

Mission San Luis Obispo, in San Luis Obispo county, founded under Carlos III, September 1st, 1772; containing 52.72 acres. Patented.

Mission San Miguel Arcangel, in San Luis Obispo county, founded under Carlos IV, July 25th, 1797; containing 33.97 acres. Patented.

Mission San Antonio de Padua, in San Luis Obispo county, founded under Carlos III, July 14th, 1771; containing 33.19 acres. Patented.

Mission La Soledad, in Monterey county, founded under Carlos IV, October 9th, 1791; containing 34.47 acres. Patented.

Mission El Carme or San Carlos de Monterey, in Monterey county, founded under Carlos III, June 3d, 1770; containing 9 acres. Patented.

Mission San Juan Bautista, in Monterey county, founded under Carlos IV, June 24th, 1797; containing 55.23 acres. Patented.

Mission Santa Cruz, in Santa Cruz county, founded under Carlos IV, August 28th, 1791; containing 16.94 acres. Patented.

- Mission Santa Clara, in Santa Clara county, founded under Carlos III, January 18th, 1777; containing 13.13 acres. Patented.
- Mission San José, in Alameda county, founded under Carlos IV, June 11th, 1797; containing 28.33 acres. Patented.
- Mission Dolores or San Francisco de Assis, in San Francisco county, founded under Carlos III, October 9th, 1776; two lots, one containing 4.3 acres and the other 4.51 acres. Patented.
- Mission San Rafael Arcangel, in Marin county, founded under Fernando VII, December 18th, 1817; containing 6.48 acres. Patented.
- Mission San Francisco Solano, in Sonoma county, founded under Fernando VII, August 25th, 1813; containing 14.20 acres.
- Cañada de los Pinos or College Rancho, 6 square leagues, in Santa Barbara county; containing 35,499.37 acres. Patented.
- La Laguna, 1 square league, in San Luis Obispo county; containing 4,157.02 acres. Patented.
- Two Gardens, in San Luis Obispo county.

610, 187, S. D., 356. Leander Ransom, claimant for Los Laureles, 2,000 varas square, in Monterey county, granted March 13th, 1844, by Manuel Micheltorena to José Agricia; claim filed February 21st, 1853, rejected by the Commission August 29th, 1854, and confirmed by the District Court June 2d, 1857.

611, 230, N. D. Jacob P. Leese, claimant for Lac, 1,000 varas square, in Sonoma county, granted July 25th, 1844, by Manuel Micheltorena to Damoso Rodriguez; claim filed February 21st, 1853, confirmed by the Commission December 12th, 1854, and by the District Court December 28th, 1857, and appeal dismissed December 28th, 1857.

612, 195, N. D. Andres Pico, claimant for 400 varas square, Mission Dolores, granted February 10th, 1846, by Pico to José Prudencio Santillan; claim filed February 21st, 1853, and rejected by the Commission January 23d, 1855.

613. William Cary Jones *et al.*, claimants for Potrero de San Francisco, one-half square league, in San Francisco county, granted May 1st, 1844, by Manuel Micheltorena to Ramon de Haro and Francisco de Haro; claim filed February 23d, 1853, and discontinued November 27th, 1855.

614, 99, S. D., 51. John Wilson *et al.*, claimants for Saucito, one by one-half league, in Monterey county, granted May 22d, 1833, by José Figueroa to Craciano Manjares; claim filed February 23d, 1853, confirmed by the Commission February 7th, 1854, by the District Court December 29th, 1856, and appeal dismissed January 21st, 1858; containing 2,211.65 acres.

615, 160, S. D. Maria Antonia Pico de Castro *et al.*, claimants for Corral de Padilla, 2,000 varas square, granted March 7th, 1836, by Nicolas Gutierrez

to Baldomero; claim filed February 23d, 1853, rejected by the Commission March 14th, 1854, and appeal dismissed for failure of prosecution October 24th, 1855.

616, 364, N. D. Jonathan D. Stevenson *et al.*, claimants for Medanos, 2 square leagues, in Contra Costa county, granted November 26th, 1839, by Juan B. Alvarado to José Antonio Mesa *et al.*; claim filed February 24th, 1853, confirmed by the Commission June 19th, 1855, by the District Court October 16th, 1856, and appeal dismissed April 2d, 1857; containing 8,890.26 acres.

617, 373, N. D. José de Jesus Bernal *et al.*, claimants for Cañada de Pala, 8,000 by 1,200 varas, in Santa Clara county, granted August 9th, 1839, by José Castro to J. de Jesus Bernal; claim filed February 24th, 1853, confirmed by the Commission June 26th, 1855, and appeal dismissed May 7th, 1857; containing 15,714.10 acres.

618, 166, S. D., 456. Jesus Machado, claimant for Buenavista, one-half square league, in San Diego county, granted July 8th, 1845, by Pio Pico to Felipe; claim filed February 24th, 1853, confirmed by the Commission May 16th, 1854, by the District Court February 1st, 1856, and appeal dismissed February 24th, 1857.

619, 355, N. D. José Noriega, claimant for 4 suertes, in Santa Clara county, granted December 5th, 1845, by Mariano Castro to J. Noriega; claim filed February 24th, 1853, rejected by the Commission July 3d, 1855, and appeal dismissed for failure of prosecution February 23d, 1857.

620, 172, S. D., 79. Rafael Castro, claimant for Aptos, 1 square league, in Santa Cruz county, granted November 16th, 1833, by José Figueroa to R. Castro; claim filed February 24th, 1853, confirmed by the Commission May 16th, 1854, by the District Court October 11th, 1855, and appeal dismissed February 23d, 1857; containing 6,685.91 acres. Patented.

621, 338, S. D. Richard S. Den, claimant for Mission of Santa Barbara, in Santa Barbara county, granted June 10th, 1846, by Pio Pico to R. S. Den; claim filed February 24th, 1853, and confirmed by the Commission June 12th, 1855.

622, 326, S. D. Petronillo Rios, claimant for Mission of San Miguel, in San Luis Obispo county, granted July 4th, 1846, by Pio Pico to William Reed, Petronillo Rios and Miguel Garcia; claim filed February 24th, 1853, rejected by the Commission May 15th, 1855, and appeal dismissed for failure of prosecution December 17th, 1856.

623, 271, S. D., 277. Maria Antonio Ortega, claimant for Atascadero, in San Luis Obispo county, granted May 6th, 1842, by Juan B. Alvarado to Trifon

Garcia; claim filed February 24th, 1853, rejected by the Commission January 2d, 1855, and appeal dismissed for failure of prosecution February 11th, 1857.

- 624, 209, S. D., 201. Carlos C. Espinoza, claimant for Posa de los Ositos, 4 square leagues, in Monterey county, granted May 7th, 1839, by Juan B. Alvarado to C. C. Espinoza; claim filed February 24th, 1853, rejected by the Commission September 26th, 1854, confirmed by the District Court September 26th, 1855, and appeal dismissed February 24th, 1857; containing 16,938.98 acres. Patented.
- 625, 224, S. D. Ysidro Maria Alvarado, claimant for Monserrate, 3 square leagues, in San Diego county, granted May 4th, 1846, by Pio Pico to Y. M. Alvarado; claim filed February 24th, 1853, rejected by the Commission November 14th, 1854, and confirmed by the District Court February 16th, 1857.
- 626, 194, N. D. William Bennitz, claimant for Briesgau, 5 square leagues, in Shasta county, granted July 26th, 1844, by Mannel Micheltorena to Wm. Bennitz; claim filed February 24th, 1853, rejected by the Commission September 26th, 1854, confirmed by the District Court April 7th, 1856, decree reversed and cause remanded by the U. S. Supreme Court with direction to dismiss the petition, 23 Howard, 255.
- 627, 271, N. D., 385. Manuel Rodriguez, claimant for Butano, 1 square league, in Santa Cruz county, informal grant February 19th, 1838, by Juan B. Alvarado, and ratified November 13th, 1844, by Manuel Micheltorena to Romana Sanchez; claim filed February 24th, 1853, confirmed by the Commission February 8th, 1855, by the District Court November 19th, 1856, and appeal dismissed June 12th, 1857; containing 3,025.65 acres.
- 628, 262, S. D., 369. Maria Antonia Castro de Anzar *et al.*, claimants for Real de las Aguilas, 7 square leagues, in Monterey county, granted January 17th, 1844, by Manuel Micheltorena to Francisco Arias and Saturnino Cariaga; claim filed February 24th, 1853, rejected by the Commission December 12th, 1854, and confirmed by the District Court February 9th, 1857.
- 629, 387, N. D., 190. Ferdinand Vassault, claimant for Camaritos, 300 varas square, in San Francisco county, granted January 21st, 1840, by Juan B. Alvarado to José de Jesus Noé; claim filed February 24th, 1853, confirmed by the Commission September 4th, 1855, by the District Court March 9th, 1857, and by the U. S. Supreme Court.
- 630, 163, N. D. Quentin Ortega, claimant for San Ysidro, 1 square league, in Santa Clara county, granted June 4th, 1833, by José Figueroa to Q. Ortega; claim filed February 25th, 1853, confirmed by the Commission August 15th, 1854, by the District Court March 22d, 1858, and appeal dismissed March 23d, 1858; containing 4,437.67 acres.

- 631, 232, S. D., 381. Thomas Blanco's heirs, claimants for 400 by 600 varas, one suerte, in Monterey county, granted August 27th, 1844, by Manuel Micheltorena to Thomas Blanco; claim filed February 25th, 1853, confirmed by the Commission December 26th, 1854, and appeal dismissed June 8th, 1857.
- 632, 245, N. D. James L. Ord, claimant for 2 square leagues, in Tuolumne county, granted in 1844, by Manuel Micheltorena to Salomon Pico; claim filed February 25th, 1853, and rejected by the Commission January 23d, 1855.
- 633, 274, N. D. Sacramento City, claimant for land granted June 18th, 1841, by Juan B. Alvarado to John A. Sutter; claim filed February 25th, 1853, rejected by the Commission March 6th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856. /
- 634, 283, S. D., 108. John H. Watson and D. S. Gregory, claimants for Bolsa de Pajaro, in Santa Cruz county, granted October 1st, 1836, to A. Rodriguez and S. Rodriguez; claim filed February 25th, 1853, and rejected by the Commission March 27th, 1855.
- 635, 291, S. D. José Manuel Borgas, claimant for El Pajaro, six suertes, in Monterey county, granted March 18th, 1843, by José R. Estrada to J. M. Borgas; claim filed February 25th, 1853, rejected by the Commission March 27th, 1855, and appeal dismissed December 18th, 1856.
- 636, 304, S. D., 303. Maria Concepcion Boronda, claimant for Potrero de San Luis Obispo, 1 square league, in San Luis Obispo county, granted November 8th, 1842, by Juan B. Alvarado to M. C. Boronda; claim filed February 26th, 1853, confirmed by the Commission February 6th, 1855, and appeal dismissed February 3d, 1858; containing 3,506.33 acres.
- 637, 257, N. D. Peter H. Burnett, claimant for lot in Sacramento City, granted June 18th, 1841, by Juan B. Alvarado to John A. Sutter; claim filed February 26th, 1853, rejected by the Commission January 23d, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.
- 638, 233, N. D. Ellen White *et al.*, widow and heirs of Charles White, claimants for Pala, 1 square league, in Santa Clara county, granted November 5th, 1835, by José Castro to José Higuera; claim filed February 26th, 1853, confirmed by the Commission December 19th, 1854, by the District Court February 23d, 1857, and appeal dismissed February 9th, 1858; containing 4,454.08 acres.
- 639, 243, N. D. City of Sonora, claimant for 1 square mile; claim filed February 26th, 1853, rejected by the Commission January 23d, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.

640. Rnfus Rowe *et al.*, claimants for part of Las Pulgas, $1\frac{1}{2}$ square leagues, in San Matco county, granted in 1820, by Pablo V. de Sola and José Castro to Lnis Arg nello; claim filed February 28th, 1853, and discontinued by claimant March 13th, 1855. (See No. 2.)
- 641, 265, N. D. Antonio Maria Osio, claimant for land in Santa Clara county, near the Mission, granted June 23d, 1846, by José Castro to A. M. Osio; claim filed February 28th, 1853, rejected by the Commission February 6th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.
- 642, 206, N. D. Maria Concepcion Valencia de Rodriguez *et al.*, claimants for San Francisquito, 8 suertes of 200 varas square each, in Santa Clara county, granted May 1st, 1839, by Jnan B. Alvarado to Antonio Buclna; claim filed February 28th, 1853, confirmed by the Commission November 28th, 1854, by the District Court February 4th, 1856, and appeal dismissed April 2d, 1857; containing 2,250.98 acres.
- 643, 124, N. D., 255. Julio Carrillo, claimant for part of Cabeza de Santa Rosa, in Sonoma county, granted September 30th, 1841, by Manuel Jimeno to Maria Ygnacia Lopez; claim filed February 28th, 1853, confirmed by the Commission April 4th, 1854, by the District Court March 2d, 1857, and appeal dismissed March 27th, 1857; containing 4,500.42 acres.
- 644, 128, N. D., 255. Jacob R. Mayer *et al.*, claimants for part of Cabeza de Santa Rosa, in Sonoma county, granted September 30th, 1841, by Mannel Jimeno to Maria Ygnacia Lopez; claim filed February 28th, 1853, confirmed by the Commission April 4th, 1854, by the District Court March 2d, 1857, and appeal dismissed March 27th, 1857; containing 1,484.82 acres.
- 645, 126, N. D., 255. James Eldridge, claimant for part of Cabeza de Santa Rosa, in Sonoma county, granted September 30th, 1841, by Manuel Jimeno to Maria Ygnacia Lopez; claim filed February 28th, 1853, confirmed by the Commission April 4th, 1854, by the District Court March 2d, 1857, and appeal dismissed March 27th, 1857; containing 1,667.68 acres.
- 646, 127, N. D., 255. Felicidad Carrillo, claimant for part of Cabeza de Santa Rosa, in Sonoma county, granted September 30th, 1841, by Manuel Jimeno to Maria Ygnacia Lopez; claim filed February 28th, 1853, confirmed by the Commission April 4th, 1854, and by the District Court March 2d, 1857.
- 647, 125, N. D., 255. Juana de Jesus Mallagh, claimant for part of Cabeza de Santa Rosa, in Sonoma county, granted September 30th, 1841, by Mannel Jimeno to Maria Ygnacia Lopez; claim filed February 28th, 1853, confirmed by the Commission April 4th, 1854, by the District Court March 2d, 1857, and appeal dismissed March 27th, 1857; containing 256.16 acres.

- 648, 314, N. D. Maria Teodora Peralta, claimant for Buacoeha, $2\frac{1}{2}$ square leagues, in Marin county, granted February 18th, 1846, by Pio Pico to M. T. Peralta; claim filed February 28th, 1853, and rejected by the Commission April 3d, 1855.
- 649, 149, N. D., 200. Otto H. Frank *et al.*, claimants for part of Napa, 6,156 acres, in Napa county, granted by Juan B. Alvarado to Salvador Vallejo; claim filed February 28th, 1853, confirmed by the Commission August 22d, 1854, by the District Court June 12th, 1858, and appeal dismissed June 12th, 1858.
- 650, 198, S. D., 4. Joaquin Soto, claimant for Cañada de la Carpenteria, one-half square league, in Monterey county, granted September 25th, 1845, by José Castro to J. Soto; claim filed February 28th, 1853, confirmed by the Commission August 15th, 1854, by the District Court October 12th, 1855, and appeal dismissed February 24th, 1857; containing 2,236.13 acres.
- 651, 384, N. D., 359. James Williams, Maria Louisa Carson and John S. Williams, widow and son of John S. Williams, the heirs and legal representatives of Edward A. Farwell, and the heirs of John Potter, claimants for Rancho de Farwell, called Arroyo Chico in Jimeno's Index, 5 square leagues, in Butte county, granted March 29th, 1844, by Manuel Micheltorena to Edward A. Farwell; claim filed February 28th, 1853, confirmed to claimants, except the heirs of J. Potter, by the Commission August 28th, 1855, by the District Court *nunc pro tunc* June 15th, 1858, and appeal dismissed March 21st, 1857; containing 22,193.93 acres.
- 652, 305, N. D. Benjamin S. Lippincott, claimant for 11 square leagues, in San Joaquin county, granted April 4th, 1846, by Pio Pico to José Castro; claim filed February 28th, 1853, rejected by the Commission May 8th, 1855, and appeal dismissed for failure of prosecution April 28th, 1856.
653. Frederiek E. Whiting, claimant for Las Animas, in Santa Clara county, granted in 1802, by José Figueron to Mariano Castro; claim filed February 28th, 1853.
- 654, 304, N. D. Inocencio Romero *et al.*, claimants for land in Contra Costa county, granted February 4th, 1844, by Manuel Micheltorena to I. Romero *et al.*; claim filed February 28th, 1853, rejected by the Commission April 17th, 1855, and by the District Court September 16th, 1857.
- 655, 272, N. D. George Swat, claimant for Nueva Flandria, 3 square leagues, granted in 1844, by Manuel Micheltorena to G. Swat; claim filed February 28th, 1853, rejected by the Commission March 27th, 1855, and by the District Court October 5th, 1857.

- 656, 415, N. D. John A. Sutter, for Moquelumne Indians, claimant for 4 square leagues, in Sacramento county, granted December 22d, 1844, by Manuel Micheltorena to Moquelumne Indians; claim filed February 28th, 1853, and confirmed by the Commission November 20th, 1855.
- 657, 375, N. D., 305. Martin E. Cook *et al.*, claimants for part of Malacomes or Moristal, 2 miles square, in Sonoma county, granted October 1843, by Manuel Micheltorena to José de los Santos Berreyesa; claim filed February 28th, 1853, confirmed by the Commission August 7th, 1855, and appeal dismissed April 16th, 1857; containing 2,559.94 acres. Patented.
- 658, 286, N. D. Nathaniel Bassett, claimant for Los Coluses, 4 square leagues, in Colusi county, granted in 1844, by Manuel Micheltorena to Juan Dauenbiss; claim filed February 28th, 1853, confirmed by the Commission March 20th, 1855, by the District Court April 17th, 1856, decree reversed by the U. S. Supreme Court and cause remanded with direction to dismiss the petition, 21 Howard, 412.
- 659, 235, N. D., 255. John Hendley, claimant for part of Cabeza de Santa Rosa, 1 mile square, in Sonoma county, granted September 30th, 1841, by Manuel Jimeno to Maria Ygnacia Lopez; claim filed February 28th, 1853, confirmed by the Commission December 19th, 1854, by the District Court March 2d, 1857, and appeal dismissed March 27th, 1857; containing 640.19 acres.
- 660, 396, N. D., 266. J. H. Fine, claimant for part of Snisun, in Solano county, granted January 28th, 1842, by Juan B. Alvarado to Francisco Solano; claim filed February 28th, 1853, confirmed by the Commission December 4th, 1855, and appeal dismissed August 20th, 1857.
- 661, 252, N. D. E. R. Carpentier, claimant for 10 square leagues, in Contra Costa county, a portion granted by P. V. de Sola, another portion granted in 1841 to Juan José and Victor Castro by Juan B. Alvarado, and another portion granted by José Figueroa to Francisco Castro, and regranted in 1844 by Manuel Micheltorena to Luis Peralta; claim filed February 28th, 1853, rejected by the Commission January 30th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.
662. H. W. Carpentier, claimant for 225 acres, in Contra Costa county, granted by P. V. de Sola and Manuel Micheltorena to Luis Peralta; claim filed February 28th, 1853, and discontinued by claimant January 23d, 1855.
- 663, 422, N. D., and 387, S. D. Joseph Sadoc Alemany, claimant, in behalf of the Christianized Indians formerly connected with the Missions of Upper California: 1st. In behalf of the Indians of Santa Clara, under a grant by Manuel Micheltorena, June 10th, 1844, for all the vacant lands of Santa

Clara ngranted before that time. 2d. In behalf of the Indians for lands known as Las Gallinas, El Nacimiento and La Estrella, in San Luis Obispo county, under a grant of Manuel Micheltorena, July 16th, 1844. 3d. In behalf of sixteen Neophytes, for small tracts of land, from 100 to 300 acres each, in the vicinity of the Mission of Santa Ynes, Santa Barbara county. 4th. And in behalf of the Indians generally, one square league in each of the 21 Missions (see No. 609). Claim filed February 28th, 1853, rejected by the Commission December 31st, 1855, appeal dismissed for failure of prosecution in the Northern District February 23d, 1857, and in the Southern District December 22d, 1857.

664, 259, N. D., 349. L. Hoover, Administrator, claimant for 5 square leagues, called Rio de las Plumas in Jimeno's Index, in Butte county, granted February 21st, 1844, by Manuel Micheltorena to Charles W. Flugge; claim filed March 1st, 1853, rejected by the Commission January 23d, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.

665, 322, S. D., 81. Heirs of David Littlejohn, claimants for Los Carneros, 1 square league, in Monterey county, granted June 28th, 1834, by José Figueroa to David Littlejohn; claim filed March 1st, 1853, confirmed by the Commission May 22d, 1855, and appeal dismissed February 1st, 1858; containing 4,482.38 acres.

666, 236, N. D., 322. A. Randall, claimant for Punta de los Reyes, 11 square leagues, in Marin county, granted November 30th, 1843, by Manuel Micheltorena to Antonio M. Osio; claim filed March 1st, 1853, confirmed by the Commission January 9th, 1855, by the District Court December 28th, 1858, and appeal dismissed May 24th, 1858; containing 48,189.34 acres. Patented.

667, 283, N. D., 343. José M. Revere, claimant for San Geronimo, 2 square leagues, in Marin county, granted February 12th, 1844, by Manuel Micheltorena to Rafael Cacho; claim filed March 1st, 1853, confirmed by the Commission February 13th, 1855, by the District Court June 26th, 1858, and appeal dismissed June 26th, 1858; containing 8,701 acres. Patented.

668, 279, S. D. Bruno Bernal, claimant for El Alisal, 1½ square leagues, in Monterey county, granted June 26th, 1834, by José Figueroa to Feliciano Soberanes *et al.*; claim filed March 1st, 1853, confirmed by the Commission January 23d, 1855, by the District Court January 13th, 1857, and appeal dismissed March 4th, 1858; containing 5,941.12 acres.

669, 335, N. D., 566. Francisco Arce, claimant for 50 by 60 varas, in Santa Clara county, granted June 3d, 1846, by Pio Pico to F. Arce; claim filed March 1st, 1853, confirmed by the Commission June 12th, 1855, and by the District Court March 9th, 1857.

- 670, 151, N. D. Presentacion de Ridley *et al.*, claimants for Cañada de Guadalupe, 2 square leagues, granted July 31st, 1841, by Juan B. Alvarado to Jacob P. Leese; claim filed March 1st, 1853, rejected by the Commission August 1st, 1854, and by the District Court December 28th, 1857.
- 671, 165, N. D. C. S. de Bernal *et al.*, claimants for 200 varas square, Mission Dolores, granted in 1834, by José Figueroa to José C. Bernal; claim filed March 1st, 1853, confirmed by the Commission August 8th, 1854, by the District Court March 24th, 1856, and appeal dismissed April 1st, 1857; containing 6.32 acres.
- 672, 178, N. D. José de la Cruz Sanchez, claimant for San Mateo, 2 square leagues, in San Mateo county, petitioned for by J. de la Cruz Sanchez in December 1836 and April 1844; claim filed March 1st, 1853, and rejected by the Commission September 19th, 1854.
- 673, 206, S. D. Francisco Soberanes, claimant for Sanjon de Santa Rita, 11 square leagues, in Merced and Fresno counties, granted September 7th, 1841, by Juan B. Alvarado to F. Soberanes; claim filed March 1st, 1853, rejected by the Commission September 19th, 1854, confirmed by the District Court February 9th, 1858, and appeal dismissed November 1st, 1860; containing 48,823.84 acres.
- 674, 277, S. D. Rafael Sanchez, claimant for San Lorenzo, 11 square leagues, in Monterey county, granted July 27th, 1846, by Pio Pico to R. Sanchez; claim filed March 1st, 1853, rejected by the Commission January 13th, 1855, confirmed by the District Court March 6th, 1856, and appeal dismissed February 24th, 1857; containing 48,285.95 acres.
- 675, 225, S. D. Nicolas Morchon, claimant for Cahuenga, 4 square leagues, in Los Angeles county, granted July 29th, 1846, by José Castro to Luis Arenas; claim filed March 1st, 1853, rejected by the Commission October 24th, 1854, and by the District Court September 13th, 1859.
676. John B. Frisbie, claimant for Matzultaquea, 4 square leagues, in Los Angeles county, granted in 1845, by Pio Pico to Ramon Carrillo; claim filed March 1st, 1853, and discontinued.
- 677, 215, N. D., 45. Joaquin Higuera, claimant for Pala, 1 square league, in Santa Clara county, granted November 5th, 1835, by José Castro to José Higuera; claim filed March 1st, 1853, rejected by the Commission December 26th, 1854, and appeal dismissed for failure of prosecution April 21st, 1856.
- 678, 282, S. D., 113. Mignel Villagran, claimant for Aguajito, 500 varas square, in Santa Cruz county, granted November 20th, 1837, by Juan B. Alvarado to M. Villagran; claim filed March 1st, 1853, and confirmed by the Commission February 20th, 1855.

- 679, 300, S. D. Vicente Gomez *et al.*, claimants for El Tuelio, 1,500 varas square, in Monterey county, granted December 4th, 1843, by José R. Estrada to José Joaquin Gomez; claim filed March 1st, 1853, and rejected by the Commission March 27th, 1855.
- 680, 384, S. D., 297. Maria Antonia Castro de Anzar *et al.*, claimants for Los Carneros, 1 square league, in Monterey county, granted October 7th, 1842, by Juan B. Alvarado to Maria Antonia Linares; claim filed March 1st, 1853, confirmed by the Commission August 28th, 1855, by the District Court December 9th, 1856, and appeal dismissed March 4th, 1858; containing 1,628.70 acres.
- 681, 330, S. D., 159. Ermenegildo Vasquez, claimant for 500 by 400 varas, in Monterey county, granted November 6th, 1835, by José Castro to E. Vasquez; claim filed March 1st, 1853, rejected by the Commission March 27th, 1855, and appeal dismissed for failure of prosecution December 28th, 1856.
682. C. S. de Bernal, claimant for 200 varas square, in San Francisco county, granted in 1833, by José Figueroa to José C. Bernal; claim filed March 1st, 1853, and discontinued January 23d, 1855. (See No. 671.)
- 683, 417, N. D. Hiram Grimes, claimant for part of New Helvetia, in Yuba and Sutter counties, granted June 18th, 1841, by Juan B. Alvarado to John A. Sutter; claim filed March 1st, 1853, rejected by the Commission January 15th, 1856, and confirmed by the District Court March 6th, 1857.
- 684, 404, N. D. Juan B. Alvarado, claimant for Nicasio, 20 square leagues, in Marin county, granted March 13th, 1835, by José Figueroa to Teodocio Quilajuequi *et al.*, Indians; claim filed March 1st, 1853, rejected by the Commission September 25th, 1855, and appeal dismissed for failure of prosecution February 4th, 1858.
- 685, 290, N. D. Henry C. Smith, claimant for one-fourth league, in Santa Clara county, granted November 2d, 1844, by Miguel Muro (priest) to Buena-ventura *et al.*, (Neophytes); claim filed March 1st, 1853, rejected by the Commission March 27th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.
- 686, 277, N. D. William C. Jones *et al.*, claimants for San Pablo, 3 square leagues, in Contra Costa county, granted June 12th, 1834, by José Figueroa to Francisco Maria Castro; claim filed March 1st, 1853, rejected by the Commission March 27th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.
- 687, 196, N. D. José de Arnas, claimant for 5 square leagues of Santa Clara

- Mission lands, granted August 1st, 1846, by José Castro to J. de Armas; claim filed March 2d, 1853, rejected by the Commission April 24th, 1855, and by the District Court February 11th, 1856.
- 688, 324, S. D. Juan Temple and David W. Alexander, claimants for 100 varas square, in Los Angeles county, granted March 11th, 1834, by José Figueroa to José A. Carrillo and Abel Stearns; claim filed March 2d, 1853, rejected by the Commission May 22d, 1855, and confirmed by the District Court April 3d, 1861.
- 689, 278, S. D. Maria Antonio Pico *et al.*, claimants for Bolsa de San Cayetano, in Monterey county, granted by Don Pablo de Sola, and October 18th, 1824, by Luis Arguello, to José Dolores Pico and Ignacia Vallejo; claim filed March 2d, 1853, rejected by the Commission January 30th, 1855, and appeal dismissed for failure of prosecution March 7th, 1860.
- 690, 405, N. D., 26. Rufina Castro *et al.*, claimants for Solis, in Santa Clara county, granted by José Figueroa to Mariano Castro; claim filed March 2d, 1853, rejected by the Commission December 4th, 1855, confirmed by the District Court May 1st, 1856, and appeal dismissed March 24th, 1857; containing 8,875.46 acres. Patented.
- 691, 291, N. D., 185. James Enright *et al.*, claimants for Medano, (see No. 616) 2 square leagues, in Contra Costa county, granted November 26th, 1839, by Juan B. Alvarado to José Antonio and José Maria Meza; claim filed March 2d, 1853, rejected by the Commission March 27th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.
- 692, 337, N. D. Guillermo Castro, claimant for land in Alameda county, granted January 14th, 1840, by Juan B. Alvarado to G. Castro; claim filed March 2d, 1853, rejected by the Commission May 15th, 1855, and appeal dismissed for failure of prosecution March 9th, 1857.
- 693, 344, N. D. José Castro *et al.*, claimants for 11 square leagues, on the San Joaquin river, (see Nos. 320 and 652) granted April 4th, 1846, by Pio Pico to José Castro; claim filed March 2d, 1853, confirmed by the Commission May 8th, 1855, by the District Court November 4th, 1858, and judgment of the Circuit Court reversed by the U. S. Supreme Court with direction to dismiss the petition, 24 Howard, 346.
- 694, 141, N. D., 200. Ann McDonald *et al.*, claimants for part of Napa, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the Commission April 25th, 1854, by the District Court February 18th, 1857, and appeal dismissed April 1st, 1857.
695. Thomas Shaddon, claimant for 5 square leagues, in Yolo county, granted December 22d, 1844, by Manuel Micheltorena to T. Shaddon; claim filed March 2d, 1853. Discontinued.

- 696, 264, N. D. William Blackburn, claimant for Arastradero, 1 square league, in Santa Cruz county, granted November 17th, 1844, by Manuel Rodriguez to Alberto F. Morris; claim filed March 2d, 1853, rejected by the Commission January 23d, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.
- 697, 345, S. D. Julian Workman *et al.*, claimants for Mission of San Gabriel, in Los Angeles county, granted June 8th, 1846, by Pio Pico to J. Workman and Hugo Reid; claim filed March 2d, 1853, confirmed by the Commission June 26th, 1855, and by the District Court April 1st, 1861.
- 698, 301, S. D. R. S. Den, claimant for San Antonio, 4,000 yards square, in Los Angeles county, granted April 29th, 1842, by Juan B. Alvarado to Nicholas A. Den; claim filed March 2d, 1853, rejected by the Commission March 27th, 1855, and appeal dismissed for failure of prosecution December 19th, 1856.
- 699, 400, N. D. Narciso Bennett, claimant for 140 varas square, one solar, in Santa Clara county, granted November 28th, 1845, by Pio Pico to N. Bennett; claim filed March 2d, 1853, rejected by the Commission October 23d, 1855, and appeal dismissed for failure of prosecution February 23d, 1857.
- 700, 317, S. D., 235. Pio Pico *et al.*, claimants for Santa Margarita and Las Flores, in San Diego county, granted May 10th, 1841, by Juan B. Alvarado to Pio Pico and Andres Pico; claim filed March 2d, 1853, and confirmed by the Commission April 24th, 1855.
- 701, 192, N. D. Pedro Chaboya, claimant for 2 square leagues, in Santa Clara county, granted to P. Chaboya; claim filed March 2d, 1853, rejected by the Commission October 24th, 1854, and by the District Court for failure of prosecution August 29th, 1861.
- 702, 237, S. D. José and Jaime de Puig Monmany, claimants for Noche Buena, a little less than 1 square league, in Monterey county, granted September 15th, 1835, by José Castro to Juan Antonio Muñoz; claim filed March 2d, 1853, confirmed by the Commission October 24th, 1854, by the District Court February 14th, 1857, and appeal dismissed January 27th, 1858; containing 4,411.56 acres.
- 703, 191, N. D.; 179 S. D. Modesta Castro, claimant for Cañada de los Osos, 11 square leagues, in Monterey county, granted October 20th, 1844, by Manuel Micheltorena to M. Castro; claim filed March 2d, 1853, rejected by the Commission August 29th, 1854, and appeal dismissed for failure of prosecution October 24th, 1855.
- 704, 173, N. D. Heirs of Francisco de Haro, claimants for 100 varas square, in Mission Dolores, granted June 28th, 1841, by Francisco Guerrero, Jns-

tice of the Peace, to Francisco de Haro; claim filed March 2d, 1853, rejected by the Commission September 19th, 1854, and confirmed by the District Court February 1st, 1858.

- 705, 166, N. D. Heirs of Francisco de Haro, claimants for 50 varas square, in Mission Dolores, granted August 16th, 1843, under a marginal decree, by Juan B. Alvarado to Francisco de Haro; claim filed March 2d, 1853, rejected by the Commission August 29th, 1854, confirmed by the District Court August 24th, 1857, and by the U. S. Supreme Court, 22 Howard, 293.
- 706, 383, N. D. William A. Dana *et al.*, claimants for part of San Antonio, 6,102 acres, in Santa Clara county, granted March 24th, 1839, by Juan B. Alvarado to Juan Prado Mesa; claim filed March 2d, 1853, rejected by the Commission July 10th, 1855, confirmed by the District Court March 3d, 1856, and appeal dismissed March 20th, 1857; containing 3,541.89 acres. Patented.
- 707, 366, N. D. William A. Dana *et al.*, claimants for part of San Antonio, 2,551 acres, in Santa Clara county, granted March 24th, 1839, by Juan B. Alvarado to Juan Prado Mesa; claim filed March 2d, 1853, rejected by the Commission July 10th, 1855, and by the District Court March 23d, 1857.
- 708, 368, N. D. James W. Weeks, claimant for part of San Antonio, 3,051 acres, in Santa Clara county, granted March 24th, 1839, by Juan B. Alvarado to Juan Prado Mesa; claim filed March 2d, 1853, rejected by the Commission July 10th, 1855, and appeal dismissed for failure of prosecution February 23d, 1857.
- 709, 354, N. D. Henry C. Curtis, claimant for part of San Antonio, 500 acres, in Santa Clara county, granted March 24th, 1839, by Juan B. Alvarado to Juan Prado Mesa; claim filed March 2d, 1853, rejected by the Commission July 10th, 1855, and by the District Court March 16th, 1857.
- 710, 378, N. D. William W. White, claimant for part of San Antonio, 100 acres, in Santa Clara county, granted March 24th, 1839, by Juan B. Alvarado to Juan Prado Mesa; claim filed March 2d, 1853, rejected by the Commission July 10th, 1855, and appeal dismissed for failure of prosecution February 23d, 1857.
- 711, 193, N. D. Victor Prudon, claimant for Island of Sacramento, $3\frac{1}{4}$ by 1 league, in the Sacramento river, granted July 6th, 1844, by Manuel Michel-torrena to Victor Prudon; claim filed March 2d, 1853, rejected by the Commission October 24th, 1854, and by the District Court February 7th, 1858.
- 712, 357, N. D. Roland Gelston, claimant for 200 by 50 varas, in San Francisco county, granted December 1st, 1838, to William Gulnac; claim filed March 2d, 1853, and rejected by the Commission September 4th, 1855.

- 713, 294, N. D., 102. Juan Alvarez *et al.*, claimants for Laguna Seca, 4 square leagues, in Santa Clara county, granted July 22d, 1834, by José Figueroa to Juan Alvarez; claim filed March 2d, 1853, rejected by the Commission March 20th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.
- 714, 382, S. D. City of Monterey, claimant for lands previously assigned to the pueblo, dedication approved by the Territorial Deputation July 24th, 1830; claim filed March 2d, 1853, confirmed by the Commission January 22d, 1856, and appeal dismissed February 1st, 1858.
- 715, 315, N. D. José Y. Limantour, claimant for 80 square leagues, 10 leagues on the Pacific ocean, between latitude $39^{\circ} 18'$ and $39^{\circ} 48'$ north, running back eight leagues in Mendocino county, south of Cape Mendocino, granted December 20th, 1844, by Manuel Micheltorena to J. Y. Limantour; claim filed March 2d, 1853, rejected by the Commission April 24th, 1855, and appeal dismissed April 28th, 1856.
- 716, 274, S. D., 351. Thomas Coal, claimant for 250 by 150 varas and 100 varas more, part of Tucho, in Monterey county, granted December 8th, 1842, by Juan B. Alvarado, and 400 varas square, in Monterey county, granted February 28th, 1844, by Manuel Micheltorena, to T. Coal; claim filed March 2d, 1853, rejected by the Commission January 23d, 1855, and confirmed by the District Court June 6th, 1857.
- 717, 225, N. D., 200. Salvador Vallejo, claimant for part of Napa or Francas and Jalapa, 3,020 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado, to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the Commission November 7th, 1854, by the District Court February 23d, 1857, and appeal dismissed May 13th, 1857; containing 3,178.93 acres.
- 718, 361, N. D., 485. Mary S. Bennett, claimant for two tracts, one 140 varas square and the other 2,000 by 1,000 varas, in Santa Clara county, near the Mission, granted December 1845, by Pio Pico to Narciso Bennett; claim filed March 2d, 1853, confirmed by the Commission July 10th, 1855, by the District Court February 28th, 1857, and appeal dismissed April 14th, 1857; containing 358.51 acres.
- 719, 154, N. D., 256. Joseph Pope *et al.*, claimants for Locoallomi, 2 square leagues, in Napa county, granted September 30th, 1841, by Manuel Jimeno to Julian Pope; claim filed March 2d, 1853, confirmed by the Commission August 1st, 1854, by the District Court August 25th, 1856, and appeal dismissed February 9th, 1858; containing 8,872.79 acres.
- 720, 122, N. D., 200. Horace Inghram, claimant for part of Napa, 74 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salva-

dor Vallejo; claim filed March 2d, 1853, confirmed by the Commission April 11th, 1854, and by the District Court March 2d, 1857.

721, 146, N. D., 200. James M. Harbin, claimant for part of Napa, 688 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the Commission May 16th, 1854, and by the District Court December 23d, 1857.

722, 111, N. D. 200. Hannah McCoombs, claimant for part of Napa, 160 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the Commission April 11th, 1854, and by the District Court March 2d, 1857.

723, 123, N. D., 200. Hart and McGarry, claimants for part of Napa, 500 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the Commission April 11th, 1854, by the District Court March 2d, 1857.

724, 109, N. D., 200. N. Coombs, claimant for part of Napa, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the Commission April 11th, 1854, and by the District Court April 4th, 1861.

725, 116, N. D., 200. A. Farley, claimant for part of Napa, 44 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the Commission April 11th, 1854, and by the District Court March 2d, 1867.

726, 120, N. D., 200. George N. Cornwell, claimant for part of Napa, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the Commission April 11th, 1854, and by the District Court March 2d, 1857.

727, 118, N. D., 200. John Truebody, claimant for part of Napa, 796 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the Commission April 11th, 1854, and by the District Court March 2d, 1857.

728, 113, N. D., 153. R. S. Kilburn, claimant for part of Entre Napa, granted April 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed March 2d, 1853, confirmed by the Commission April 11th, 1854, and by the District Court March 30th, 1861.

729, 117, N. D., 200. A. L. Boggs, claimant for part of Napa, 320 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador

Vallejo; claim filed March 2d, 1853, confirmed by the Commission April 11th, 1854, and by the District Court March 2d, 1857.

730, 110, N. D., 200. J. R. McCoombs, claimant for part of Napa, 487 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the Commission April 11th, 1854, and by the District Court April 18th, 1859.

731, 393, N. D., 200. Ogden Wise, claimant for part of Napa, 623.85 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the Commission December 4th, 1855, and appeal dismissed August 6th, 1857.

732, 71, N. D., 200. Julius K. Rose, claimant for part of Napa, 526 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the Commission December 13th, 1853, by the District Court October 6th, 1858, and appeal dismissed October 8th, 1858; containing 594.83 acres.

733, 79, N. D., 200. William H. Osborn, claimant for part of Napa, 250 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the Commission December 13th, 1853, by the District Court October 6th, 1858, and appeal dismissed October 8th, 1858; containing 259.61 acres.

734, 66, N. D., 200. Lyman Bartlett, claimant for part of Napa, 1 square mile, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the Commission December 13th, 1853, by the District Court April 21st, 1856, and appeal dismissed April 2d, 1857; containing 679.52 acres.

735, 313, N. D., 200. Eben Knight, claimant for part of Napa, one-half mile square, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, and rejected by the Commission March 27th, 1855.

736, 76, N. D., 200. James McNeil, claimant for part of Napa, 450 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, and confirmed by the Commission December 13th, 1853.

737, 139, N. D., 200. Archibald A. Ritchie, claimant for part of Napa, 150 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the Commission April 25th, 1854, and by the District Court March 2d, 1857.

- 738, 164, S. D. City of San Luis Obispo, claimant for 4 square leagues; claim filed March 2d, 1853, rejected by the Commission August 1st, 1854, and appeal dismissed for failure of prosecution October 24th, 1855.
- 739, 327, N. D., 229. Joseph Hooker, claimant for part of Agna Caliente, in Sonoma county, granted July 13th, 1840, by Juan B. Alvarado to Lazaro Piña; claim filed March 2d, 1853, confirmed by the Commission April 24th, 1855, by the District Court March 2d, 1857, and appeal dismissed March 27th, 1857; containing 550.86 acres.
- 740, 372, N. D., 208. Benjamin R. Buckelew, claimant for Punta de Qنتين, 2 square leagues, in Marin county, granted September 24th, 1840, by Juan B. Alvarado to Juan B. R. Cooper; claim filed March 2d, 1853, confirmed by the Commission July 10th, 1855, and by the District Court March 30th, 1857.
- 741, 153, N. D. Mariano G. Vallejo, claimant for Agua Caliente, in Sonoma county, granted July 13th, 1840, by Juan B. Alvarado to Lazaro Piña; claim filed March 2d, 1853, rejected by the Commission August 1st, 1854, and confirmed by the District Court July 13th, 1859.
- 742, 412, N. D. J. W. Redman *et al.*, claimants for Orchard of Santa Clara, 10 acres, granted June 30th, 1846, by Pio Pico to Benito Dias, Juan Castañeda and Luis Arenas; claim filed March 2d, 1853, rejected by the Commission December 18th, 1855, and by the District Court May 21st, 1858.
743. John A. Sutter, claimant for surplus lands of New Helvetia, 22 square leagues, in Yuba and Sutter counties, granted February 5th, 1845, by Manuel Micheltorena to John A. Sutter; claim filed March 2d, 1853. Discontinued.
- 744, 142, N. D. Guadalupe Mining Company, claimant for part of Cañada de los Capitancillos, described by boundaries, in Santa Clara county, granted September 1st, 1842, by Juan B. Alvarado to Justo Larios; claim filed March 2d, 1853, confirmed by the Commission May 2d, 1854, and by the District Court August 17th, 1857. (See No. 340.)
- 745, 285, N. D., 245. Henry R. Payson, claimant for Cañada de Guadalupe and Visitacion y Rodco Viejo, 2 square leagues, in San Mateo county, granted July 31st, 1841, by Juan B. Alvarado to Jacob P. Leese; claim filed March 2d, 1853, confirmed by the Commission January 30th, 1855, by the District Court June 18th, 1856, and appeal dismissed April 1st, 1857; containing 9,594.90 acres.
- 746, 293, N. D. Mowry W. Smith, claimant for part of Las Pulgas, 7,000 acres, in San Mateo county, granted in 1835, by P. V. de Sola and José Castro to

Luis Arguello; claim filed March 2d, 1853, rejected by the Commission February 20th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.

747, 383, S. D. Thomas Russell, claimant for 800 varas square, in Santa Cruz county, granted in 1838, by José R. Estrada, Prefect, to José R. Buena, and Potrero and Rincon de San Pedro, 500 varas from east to west and 600 varas from north to south, granted in 1842 by José Jimeno to José Arana; claim filed March 2d, 1853, grant of 800 varas rejected and grant by Jimeno confirmed by the Commission January 30th, 1855, and by the District Court June 18th, 1859.

748. Martin Murphy, Sr., claimant for part of Las Animas, one-eighth of 12 square leagues, in Santa Clara county, granted August 17th, 1802, by Marquina, and August 7th, 1835, by José Figuroa, to Mariano Castro; claim filed March 2d, 1853, and discontinued April 3d, 1855. (See No. 161.)

749, 295, S. D. Talbot H. Green, claimant for land under a grant of the Ayuntamiento of the town of Monterey of April 23d, 1846; claim filed March 2d, 1853, rejected by the Commission March 27th, 1855, and appeal dismissed December 18th, 1856.

750. William Carey Jones *et al.*, claimants for part of Las Pulgas, in San Mateo county, granted in 1835, by P. V. de Sola to Luis Arguello; claim filed March 2d, 1853, and discontinued August 1st, 1854. (See No. 2.)

751, 414, N. D. Clement Panaud *et al.*, claimants for Garden of San Cayetano, 1,000 by 200 varas, in Santa Clara county, granted August 1845, by Pio Pico to Juan B. Alvarado; claim filed March 2d, 1853, rejected by the Commission February 8th, 1855, and by the District Court October 2d, 1860.

752, 385, S. D. Clement Panaud *et al.*, claimants for Orchard of San Juan Bautista, 400 varas square, in Monterey county, granted May 4th, 1846, by Pio Pico to Oliver Deleisiguez; claim filed March 2d, 1853, and confirmed by the Commission December 18th, 1855.

753, 379, S. D. Adolph Canil *et al.*, claimants for Arias Rancho, 1 square league, in Monterey county, granted December 10th, 1839, by José Castro to Francisco Arias; claim filed March 2d, 1853, rejected by the Commission February 27th, 1855, and by the District Court June 17th, 1859.

754, 402, N. D. Thomas O. Larkin, claimant for Mission Santa Clara Orchard, 15 acres, in Santa Clara county, granted June 30th, 1846, by Pio Pico to Juan Castañeda, Luis Arenas and Benito Dias; claim filed March 2d, 1853, rejected by the Commission December 18th, 1855, and by the District Court May 21st, 1858.

755. James Stokes, claimant for La Natividad, 850 acres, in Monterey county, granted by Juan B. Alvarado to Nicolas Alviso and Manuel Butron; claim filed March 2d, 1853. Discontinued.
756. Charles Brown *et al.*, claimants for 4 square leagues, in Napa county, granted in 1834, by Hajar, styled Governor, to C. Brown *et al.*; claim filed March 2d, 1853. Discontinued.
- 757, 388, N. D. Nicolas Berreyesa, claimant for Las Milpitas, in Santa Clara county, under a decree signed by Pedro Chaboya, first Alcalde of the Ayuntamiento of San José of May 6th, 1834, to N. Berreyesa; claim filed March 2d, 1853, and rejected by the Commission October 16th, 1855.
- 758, 377, S. D. James Stokes, claimant for 3 suertes, in Monterey county, granted January 2d, 1843, by José R. Estrada, Prefect of the First District, to José C. Boronda; claim filed March 2d, 1853, rejected by the Commission October 2d, 1855, and appeal dismissed for failure of prosecution December 22d, 1856.
- 759, 369, N. D. John A. Sutter, claimant for Town of Sutter, in Sacramento county; claim filed March 2d, 1853, rejected by the Commission July 17th, 1855, and appeal dismissed for failure of prosecution February 23d, 1857.
- 760, 333, N. D. Thaddeus M. Leavenworth, claimant for part of Agua Caliente, in Sonoma county, granted July 13th, 1840, by Juan B. Alvarado to Lazaro Piña; claim filed March 2d, 1853, confirmed by the Commission April 24th, 1855, by the District Court March 2d, 1857, and appeal dismissed April 3d, 1857; containing 320.33 acres.
- 761, 260, N. D. Robert Hopkins, claimant for part of Entre Napa, 80 acres, in Napa county, granted May 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed March 2d, 1853, rejected by the Commission January 30th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.
- 762, 258, N. D., 255. Oliver Boulio, claimant for part of Cabeza de Santa Rosa, 640 acres, in Sonoma county, granted September 30th, 1841, by Manuel Jimeno to Maria Ignacia Lopez; claim filed March 2d, 1853, rejected by the Commission January 30th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.
- 763, 169, N. D., 200. John E. Brown, claimant for part of Napa, 110 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallcjo; claim filed March 2d, 1853, confirmed by the Commission September 5th, 1854, by the District Court March 2d, 1857, and appeal dismissed March 21st, 1857.

764. Charles B. Strode, claimant for part of San Antonio, 5,000 acres, in Alameda county, granted by P. V. de Sola and Luis Antonio Arguello to Luis Peralta; claim filed March 2d, 1853. Discontinued.
765. Charles B. Strode, claimant for part of San Antonio, 10,000 acres, in Alameda county, granted by P. V. de Sola and Luis Antonio Arguello to Luis Peralta; claim filed March 2d, 1853. Discontinued.
- 766, 248, N. D., 39. Victoria D. Estudillo *et al.*, claimants for Temecula, 6 square leagues, in San Diego county, granted February 11th, 1835, by José Figueroa to José Antonio Estudillo; claim filed March 2d, 1853, rejected by the Commission January 30th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.
- 767, 413, N. D. Francisco Rico *et al.*, claimants for Rancharia del Rio Estanislao, 11 square leagues, in San Joaquin and Calaveras counties, granted December 29th, 1843, by Manuel Micheltorena to Francisco Rico and José Antonio Castro; claim filed March 2d, 1853, confirmed by the Commission October 16th, 1855, by the District Court November 10th, 1856, and appeal dismissed April 1st, 1857; containing 48,886.64 acres.
- 768, 279, N. D. José Jesus Berreyesa, claimant for Yucuy, 8 square leagues, near Clear Lake, granted May 29th, 1846, by José de los Santos Berreyesa to J. J. Berreyesa; claim filed March 2d, 1853, rejected by the Commission March 27th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.
- 769, 293, S. D., 118. Charles Morse *et al.*, claimants for La Laguna de las Calabasas, one and one-fourth by one-half league, in Santa Cruz county, granted December 30th, 1833, by José Figueroa to Felipe Hernandez; claim filed March 2d, 1853, rejected by the Commission March 27th, 1855, and confirmed by the District Court June 17th, 1858.
770. Martin Murphy, claimant for 300 acres, granted by Manuel Micheltorena to Shelton; claim filed March 2d, 1853, and rejected by the Commission March 27th, 1855. Discontinued.
- 771, 309, N. D., 90. Robert Cathcart, Administrator, claimant for Sayente, 2 by 1 league, in Santa Cruz county, granted October 1833, by José Figueroa to Joaquin Buelna; claim filed March 2d, 1853, rejected by the Commission April 17th, 1855, and appeal dismissed for failure of prosecution April 28th, 1856.
- 772, 385, N. D. A. Randall, claimant for 2 square leagues, in Marin county, granted March 17th, 1836, by Juan B. Alvarado to James Richard Berry;

claim filed March 2d, 1853, confirmed by the Commission September 11th, 1855, by the District Court December 28th, 1857, and appeal dismissed May 24th, 1858; containing 8,887.68 acres. Patented.

- 773, 114, N. D., 200. L. D. Brown *et al.*, claimants for part of Napa, 640 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the Commission April 11th, 1854, and by the District Court March 2d, 1857.
- 774, 263, N. D. Paula Sanchez de Valencia, claimant for Buri Buri, two-tenths of 4 square leagues, in San Mateo county, granted provisionally by Luis Antonio Arguello December 11th, 1827, and by José Castro September 23d, 1835, to José Sanchez; claim filed March 2d, 1853, rejected by the Commission January 30th, 1855, (confirmed in No. 97) and appeal dismissed for failure of prosecution April 21st, 1856.
- 775, 325, N. D. C. P. Stone, claimant for part of Agna Caliente, 300 acres, in Sonoma county, granted July 13th, 1840, by Juan B. Alvarado to Lazaro Piña; claim filed March 2d, 1853, confirmed by the Commission April 24th, 1855, by the District Court March 2d, 1857, and appeal dismissed March 31st, 1857.
- 776, 306, N. D. Francis J. White, claimant for 300 acres, in Sacramento county, granted by Juan B. Alvarado to John A. Sutter; claim filed March 2d, 1853, rejected by the Commission April 17th, 1855, and appeal dismissed for failure of prosecution April 28th, 1856.
- 777, 254, N. D. Widow and heirs of Anastasio Chabolla, claimants for 3 suertes, in San José, Santa Clara county, granted in 1785 by authority of the King of Spain to Mazariño Laez; claim filed March 2d, 1853, rejected by the Commission January 30th, 1855 and claim dismissed by the District Court for failure of prosecution January 8th, 1858.
778. Barcelia Bernal, claimant for Embarcadero de Santa Clara, 1,000 varas square, in Santa Clara county, granted June 18th, 1848, by Pio Pico to B. Bernal; claim filed March 2d, 1853. Discontinued.
- 779, 198, N. D. Barcelia Bernal, claimant for 1 square league, in Santa Clara county, granted in 1845 or 1846 by the Governor of California to B. Bernal *et al.*; claim filed March 2d, 1853, and rejected by the Commission March 6th, 1855.
- 780, 317, N. D. José Y. Limantonr, claimant for Lupyomi, 11 square leagues, granted October 20th, 1844, by Manuel Micheltorena to José Y. Limantonr; claim filed March 2d, 1853, rejected by the Commission April 24th, 1855, and by the District Court March 11th, 1857.

- 781, 311, S. D. José Y. Limantour, claimant for Laguna de Tache, 11 square leagues, granted December 4th, 1843, by Manuel Micheltorena to José Y. Limantour; claim filed March 2d, 1853, rejected by the Commission April 24th, 1855, and appeal dismissed for failure of prosecution December 17th, 1856.
- 782, 314, S. D. José Y. Limantour, claimant for Cienega del Gabilan, 11 square leagues, in Monterey county, granted October 26th, 1843, by Manuel Micheltorena to Antonio Chavis; claim filed March 2d, 1853, rejected by the Commission April 24th, 1855, and confirmed by the District Court February 4th, 1858.
- 783, 321, S. D. José Y. Limantour, claimant for Cajnenga, 6 square leagues, in Los Angeles county, granted February 7th, 1845, by Manuel Micheltorena to José Y. Limantour; claim filed March 2d, 1853, rejected by the Commission April 24th, 1855, and appeal dismissed for failure of prosecution December 17th, 1856.
- 784, 307, N. D. José Y. Limantour, claimant for Ojo de Agua, 400 varas square, near the Mission of San Francisco Solano, granted December 20th, 1844, by Manuel Micheltorena to José Y. Limantour; claim filed March 2d, 1853, rejected by the Commission April 24th, 1855, and by the District Court March 11th, 1857.
- 785, 319, S. D. José Maria Castañares, claimant for Arroyo de los Calsoncillos, 11 square leagues, in Santa Clara county, granted December 28th, 1843, by Manuel Micheltorena to J. M. Castañares; claim filed March 2d, 1853, rejected by the Commission April 24th, 1855, and appeal dismissed for failure of prosecution February 12th, 1857.
- 786, 310, N. D. Victor Prudon, claimant for Bodega, in Sonoma county, granted July 15th, 1841, by M. G. Vallejo to V. Prudon; claim filed March 2d, 1853, rejected by the Commission April 24th, 1855, and by the District Court March 17th, 1857.
787. W. W. Warner, claimant for part of Nueva Flandria, 3 leagues square, granted in 1845 on an order of Manuel Micheltorena by J. A. Sutter to Juan de Swat; claim filed March 2d, 1853, and rejected by the Commission March 27th, 1855.
- 788, 340, N. D. Justo Larios *et al.*, claimants for Campo de los Franceses, granted in 1844, by Manuel Micheltorena to Guillermo Gulnack; claim filed March 2d, 1853, and rejected by the Commission April 24th, 1855.
- 789, 339, N. D. Agustin Juan, claimant for Campo de los Franceses, granted in 1844, by Manuel Micheltorena to Guillermo Gulnack; claim filed March

2d, 1853, rejected by the Commission April 24th, 1855, and dismissed by claimant March 20th, 1857.

790, 296, S. D. Widow and children of Simeon Castro, claimants for Tncho, 800 varas square, in Monterey county, granted June 12th, 1841, by Juan B. Alvarado to Simeon Castro; claim filed March 3d, 1853, confirmed by the Commission March 20th, 1855, and appeal dismissed February 1st, 1858.

791, 112, N. D., 200. H. G. Langley, claimant for part of Napa, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 3d, 1853, confirmed by the Commission April 11th, 1854, and by the District Court with consent of the U. S. District Attorney March 2d, 1857.

792, 266, N. D. Cyrus Alexander, claimant for part of Sotoyomi, 2 square leagues, granted September 28th, 1841, by Juan B. Alvarado to Henry D. Fitch; claim filed March 3d, 1853, rejected by the Commission February 8th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856. (See No. 16.)

793, 303, N. D. Sacramento City, claimant for land; claim filed March 3d, 1853, rejected by the Commission April 17th, 1855, and appeal dismissed April 21st, 1856.

794, 247, N. D. Salvador Vallejo, claimant for part of Lupyomi, 2 square leagues, granted September 5th, 1844, by Manuel Micheltorena to S. Vallejo and Juan Antonio Vallejo; claim filed March 3d, 1853, rejected by the Commission January 30th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856. (See No. 507.)

795, 356, N. D. Peter Scherreback, claimant for 800 varas square, in San Francisco county, granted December 5th, 1845, by Mariano Castro to P. Scherreback; claim filed March 3d, 1853, rejected by the Commission November 6th, 1855, confirmed by the District Court December 5th, 1859, and decree vacated June 2d, 1860.

796, 308, S. D. Eulogio de Celis, claimant for 100 varas square, in San Diego county, granted in 1835 by the Ayuntamiento of the town of San Diego to Juan Maria Osuna; claim filed March 3d, 1853, rejected by the Commission February 8th, 1855, and appeal dismissed for failure of prosecution December 19th, 1856.

797, 336, N. D. William M. Fuller, claimant for part of Soulajule, one and one-sixteenth square miles, in Marin county, granted March 29th, 1844, by Manuel Micheltorena to José Ramon Mesa; claim filed March 3d, 1853, rejected by the Commission April 17th, 1855, and appeal dismissed for failure of prosecution February 23d, 1857.

- 798, 316, N. D. Harriet Besse, claimant for part of Lassen's Rancho, in Tehama county, granted December 26th, 1844, by Mannel Micheltorena to Peter Lassen; claim filed March 3d, 1853, rejected by the Commission April 17th, 1855, and appeal dismissed for failure of prosecution April 28th, 1856.
- 799, 160, N. D. Charles E. Hart, claimant for part of Los Carneros, in Solano county, granted May 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed March 3d, 1853, confirmed by the Commission August 1st, 1854, and by the District Court March 2d, 1857.
- 800, 256, N. D. James H. Watmough, claimant for part of Petaluma grant, one square mile, in Sonoma county, granted October 22d, 1843, by Mannel Micheltorena to M. G. Vallejo; claim filed March 3d, 1853, rejected by the Commission January 30th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.
- 801, 296, N. D. Reuben M. Hill, claimant for part of Los Carneros, 500 yards square, in Napa county, granted May 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed March 3d, 1853, rejected by the Commission February 27th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.
- 802, 282, N. D. Sarah Ann Madie, claimant for part of Los Carneros, in Napa county, granted May 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed March 3d, 1853, rejected by the Commission February 27th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.
- 803, 365, N. D. Edward Wilson, claimant for part of Los Carneros, in Napa county, granted May 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed March 3d, 1853, confirmed by the Commission June 12th, 1855, and appeal dismissed March 20th, 1857.
- 804, 267, N. D. John Conn, claimant for Locoyollome, 2 square leagues, in Napa county, granted in 1845, by José de los Santos Berreyesa, first Alcalde of the District of Sonoma, to John Rainsford; claim filed March 2d, 1853, rejected by the Commission February 8th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.
- 805, 334, S. D. José Antonio Aguirre, claimant for one-half of Island Santa Cruz, in Santa Barbara county, granted May 22d, 1839, by Juan B. Alvarado to Andres Castelleros, under an alleged sale from Castellero, (see No. 176); claim filed March 3d, 1853, rejected by the Commission June 5th, 1855, and dismissed by claimant March 4th, 1858.

- 806, 187, N. D. José Santos Berreyesa, claimant for 200 by 300 varas, in Sonoma county, granted May 30th, 1846, by Joaquin Carrillo to J. S. Berreyesa; claim filed March 3d, 1853, rejected by the Commission October 17th, 1854, and appeal dismissed for failure of prosecution April 21st, 1856.
- 807, 197, N. D. Milton Little, claimant for 5 square leagues, in Monterey county, granted in 1844 or 1845, by Manuel Micheltorena to Josefa Martinez; claim filed March 3d, 1853, rejected by the Commission April 17th, 1855, and by the District Court June 1st, 1858. Rejected again on rehearing, July 6th, 1858.
- 808, 180, S. D. John Foster *et al.*, claimants for Mission of San Juan Capistrano, in Los Angeles county, granted December 6th, 1845, by Pio Pico to J. Foster and J. McKinley; claim filed March 3d, 1853, rejected by the Commission August 1st, 1854, and appeal dismissed by claimant February 8th, 1858.
- 809, 158, N. D. R. S. Kilburn, claimant for 1,500 acres, granted to Manuel Baca; claim filed March 3d, 1853, rejected by the Commission August 1st, 1854, and appeal dismissed for failure of prosecution April 21st, 1856.
- 810, 108, N. D. N. Coombs, claimant for part of Entre Napa, in Napa county, granted May 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed March 3d, 1853, confirmed by the Commission April 11th, 1854, and by the District Court March 30th, 1861.
- 811, 251, N. D. W. H. Davis *et al.*, claimants for 200 varas square, in San Francisco county, granted in 1835, by José Castro to José Joaquin Estudillo; claim filed March 3d, 1853, rejected by the Commission February 6th, 1855, and appeal dismissed for failure of prosecution April 21st 1856.
812. James A. Shorb *et al.*, claimants for Arroyo de San Antonio, 3 square leagues, granted October 8th, 1844, by Manuel Micheltorena to Juan Miranda; claim filed March 3d, 1853, and discontinued February 6th, 1855.
- 813, 428, N. D. Juan M. Luco, claimant for Ulpinos, granted December 4th, 1845, by Pio Pico to José de la Rosa; claim filed September 13th, 1854, by virtue of an Act of Congress of April 17th, 1854, the two years within which claims might be presented having elapsed, rejected by the Commission September 25th, 1855, by the District Court June 26th, 1858, and judgment affirmed by the U. S. Supreme Court, 23 Howard, 615.

By the law of Congress of March 3d, 1851, the Commission was to act during three years from the passage of the law, and the claims not presented within two years from the date of the Act, were to be considered part of the public domain.

By the law of January 18th, 1854, the time within which the Commission was to act, was extended one year more from the third of March, 1854, and by the law of the tenth of January, 1855, the time was again extended one year more from the third of March, 1855.

Commission adjourned, March 1st, 1856.

JIMENO INDEX.

As to the importance of the registry of a grant in the Jimeno Index, the United States Court in the case of the *United States v. West's Heirs*, in 22 Howard, 315, say:—

"We do not regard the catalogue of grants as authoritative proof of grants enumerated in it, or as a conclusive exclusion of grants not so registered by Jimeno, which may be alleged to have been made whilst California was a part of the Mexican Republic, though they may bear date within the time to which that Index relates, but in this case it may be referred to as an auxiliary memorandum made by Jimeno himself of his action upon the petition of West."

No grant presented to the Commission seems to correspond to the following numbers:

In the Jimeno Index—Nos. 12, 22, 28, 42, 44, 47, 48, 52, 53, 56, 57, 63, 65, 68, 73, 76, 78, 89, 93, 96, 97, 98, 99, 101, 104, 106, 107, 112, 115, 116, 117, 119, 120, 123, 132, 134, 137, 138, 146, 158, 161, 165, 170, 173, 178, 183, 183, 199, 206, 213, 219, 232, 242, 258, 263, 269, 287, 323, 368, 373, 374, 378, 379, 383, 386, 388, 392, 399, 401, 427, 428 and 429.

Grants refused—Nos. 2, 3, 8, 32, 33, 38, 40, 41, 43, 59, 62, 66, 67, 74, 83, 84, 85, 86, 103.

In the Hartnell Index—Nos. 435, 440, 445, 447, 448, 450, 460, 466, 469, 471, 477, 480, 486, 487, 505, 509, 515, 516, 517, 518, 526, 533, 535, 538, 539, 540, 543, 561, 567, 568, 573, 574 and 576.

Grants appearing to be in Lower California—Nos. 482, 489, 490, 492, 497, 498, 500, 502, 555, 556, 557, 564.

The above grants, in Upper California, are supposed not to have been presented to the Commission, but by a more diligent search some of the above numbers might be found to correspond to the grants presented.



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- Lots in San Francisco, Nos. 29, 74, 94, 604, 682, 712, 795, 811.
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ABANDONMENT.

See FORFEITURE.

Presumption of abandonment must be strong and unequivocal. *Nunez v. United States*, 191.

APPEAL.

An appeal will be granted on application made after the expiration of the term at which the decree was rendered. The objection that the Court has no power in the premises being one that should be determined by the Supreme Court. *Nes v. United States*, 242.

The claimants omitted to file with the Clerk a notice of their intention to prosecute the appeal from the decision of the Board of Land Commissioners within the six months prescribed by the Act of 1852: *Held*, that the Court was without jurisdiction over the case. *Yturbe v. United States*, 273.

BONA FIDES OF GRANTS.

Case confirmed—*United States v. Rico*, 161.

Cases rejected—*Redman v. United States*, 305; *Larkin v. United States*, 313; *Palmer v. United States*, 249.

BOUNDARIES.

See SEVERANCE.

The objection that the boundary of one adjoining rancho is affected by another claim is not tenable, the controversy being between and concluding the United States and the claimants only. *United States v. Heirs of Sanchez*, 133.

In fixing limits of lands to be granted, both the law and the usage of the Californians required them to adopt as nearly as possible a rectangular or square figure. *United States v. Soto et al.*, 182.

As to boundaries, see cases: *United States v. Berreyesa*, 99; *United States v. Cooper*, 101; *United States v. Moraga*, 103; *Grimes v. United States*, 107; *United States v. Suñol*, 110; *Pacheco v. United States*, 113; *United States v. Fossat*, 211, 376.

CITIZENSHIP.

Where the grant itself recites that the claimant was a naturalized Mexican citizen, and it is shown that letters of naturalization were in fact issued to him and no fraud is pretended to have been committed in obtaining them, it cannot now be contended that he was not at the time of receiving his grant a naturalized Mexican citizen. *United States v. Reading*, 18.

CONDITIONS.

See GRANT.

CONFIRMATION.

See GRANT.

Cases confirmed where the conditions of grant have been complied with. *United States v. Larkin*, 41; *Yount v. United States*, 43; *United States v. Yount*, 49; *Feliz v. United States*, 69; *United States v. Greer*, 72; *Castro v. United States*, 72; *United States v. Suñol*, 74; *United States v. Reid*, 74; *United States v. Larkin*, 75; *United States v. Amador*, 76; *United States v. Horrell*, 78; *United States v. Pacheco*, 79; *United States v. Thompson*, 79; *United States v. Page*, 80; *United States v. Rodriguez*, 82; *United States v. Thomes*, 82; *Id.* 83; *Brckett v. United States*, 85; *United States v. Cambuston*, 86; *Dana v. United States*, 87; *United States v. Peralta*, 89; *United States v. Cazares*, 90; *United States v. Heirs of Guerrero*, 94; *United States v. Carrillo*, 96; *United States v. Heirs of Palomares*, 97; *De Zaldo v. United States*, 98; *United States v. Bernal*, 99; *United States v. Osio*, 100; *United States v. Cooper*, 101; *United States v. Moraya*, 103; *Bennitz v. United States*, 104; *United States v. Castro*, 105; *Grimes v. United States*, 107; *United States v. Boggs*, 109; *United States v. Briones*, 111; *United States v. Bassett*, 112; *Pico v. United States*, 116; *United States v. Leese*, 124; *United States v. Weber*, 126; *United States v. Reid*, 129; *Heirs of Chabolla v. United States*, 130; *United States v. Ortega*, 135; *United States v. Grimes*, 137; *United States v. Payson*, 138; *United States v. Pope*, 141; *Pico v. United States*, 142; *United States v. Murphy*, 154; *United States v. Chana*, 155; *United States v. Bernal*, 139; *United States v. Rodriguez*, 170; *United States v. Sheldon*, 171; *United States v. Pico*, 172; *Rodriguez v. United States*, 175; *United States v. Alvisu*, 176; *United States v. Soto*, 177; *Armijo v. United States*, 248.

CONQUEST.

See GRANT.

CONTINUANCE.

The fact that the Circuit and District Courts are simultaneously in session is not sufficient cause for the continuance of a land case. *Palmer v. United States*, 227.

DECREE.

Where a decree through mistake or accident does not express the judgment of the Court, it may be corrected on motion made after the expiration of the term at which it was enrolled. *United States v. Bennett*, 281.

DENOUNCEMENT.

Although the grantee did not strictly comply with the condition to build a house within the year from the date of the grant; yet where the grant was confirmed by the Assembly, and there was no denouncement under the former Government, the claim should be confirmed. *United States v. Soto*, 68; *Pacheco v. United States*, 113; *Pico v. United States*, 116.

DESCRIPTION.

See BOUNDARIES.

DISEÑO.

See QUANTITY.

DISTRICT ATTORNEY.

See TRIAL.

EVIDENCE.

Evidence from the archives is even more satisfactory than that afforded by the production of an original title. *United States v. Rodriguez*, 170.

FORFEITURE.

Forfeiture could only have been incurred by unreasonable delay or want of effort on the part of the grantee to fulfill the conditions of the grant, and such as to raise the presumption that he had abandoned his claim. *Martin v. United States*, 146; *Noé v. United States*, 162; *United States v. Soto*, 182; *McKee v. United States*, 173; *United States v. Rose*, 197.

FORGERY.

To pronounce a grant a forgery, something more than a suspicion as to its genuineness should be entertained. *United States v. Rico*, 161.

FRAUD.

Cases in which fraud was alleged. Confirmed—*United States v. Heirs of Bernal*, 50. Rejected—*Suat v. United States*, 230; *United States v. Limantour*, 389.

FREMONT CASE.

Decisions under the rulings of the Supreme Court in the Fremont case. 17 How. 560; *Semple v. United States*, 37; *United States v. Larkin*, 41; *Yount v. United States*, 43; *United States v. Soto*, 68; *Grimes v. United States*, 107; *Pacheco v. United States*, 113; *Pico v. United States*, 116; *United States v. Weber*, 126; *Chabolla v. United States*, 130; *Pico v. United States*, 142; *Noé v. United States*, 162; *Pico v. United States*, 188; *Nunez v. United States*, 191; *Armijo v. United States*, 248.

GENUINENESS OF GRANT.

See GRANTS.

GOVERNOR.

The Governor had no power to grant in colonization, or sell for a money consideration, the orchards and like property of the Missions. *Larkin v. United States*, 313.

GRANT.

Where the condition of a grant, which has not been approved by the Deputation, required a house to be built and the land cultivated within one year from its date, and no house was built or cultivation made within six years: *Held*, that the claimant had, under the rules of decision laid down by the Supreme Court, no equities which entitled him to a confirmation. *United States v. Cruz Cervantes*, 9.

When the conditions of a grant have been performed *cyprès*, though no approval has been given by the Departmental Assembly, the claim is entitled to confirmation. *United States v. Reading*, 18.

Although the final grant in this case was not issued until the seventh of July, 1846, which date the political branch of our Government seems to have indicated as the period of the actual conquest of California, yet the Governor having ordered the title to issue on the eleventh of June, 1846, the claim presents an equity which must be respected by the United States. *Pico et al. v. United States*, 279.

Where one of two persons to whom a grant was made has exhibited a deed from his cograntee and obtained a confirmation of his claim to the whole tract, the cograntee who has presented his separate claim for his half, and who denies the execution of the deed, is entitled to a confirmation as against the United States, and the rights of the parties *intersese* will be left to be determined by the ordinary tribunals. *Thurn v. United States*, 298.

GRANTEE.

See GRANT.

INDIAN.

Indians had a right to receive grants of lands under the Mexican laws and to convey the lands so granted. *United States v. Sañol*, 110.

ISLANDS.

The grant of islands were made by the express direction of the Superior Government of Mexico, and the Governor was enjoined to grant the islands to Mexicans, in order to prevent their occupation by foreigners who might injure the commerce and fisheries of the republic, and who, especially the Russians, might otherwise acquire a permanent foothold upon them. *United States v. Osio*, 100.

LAND.

See QUANTITY.

A mere permission to search for and take possession of lands did not bind the Mexican Government to make a title, consequently the United States are not required under the treaty to recognize this claim. *Garcia v. United States*, 157.

Under the laws of Mexico more than eleven leagues of land could not be granted in colonization to any one person. *United States v. Hartnell*, 207.

The power of the Mexican Government to grant lands in California was unimpaired by the declaration of Congress that war existed, and the prosecution of that war by the executive, and did not cease until the actual conquest of the country. *Palmer v. United States*, 249.

The declaration in the *projet* of the treaty between the United States and Mexico, that no grants of lands had been made by the latter subsequent to May 13th, 1846, which declaration was stricken out by the Senate, cannot bar the rights of persons claiming lands under grants made since that day and before actual conquest, those rights being held sacred by the laws and usages of civilized nations. *Id.*

LIMITATION.

Where a claimant for land has presented his petition to the Board of Land Commissioners, but has neglected to support it by evidence within two years thereafter, such neglect does not bring the claim within the limitation prescribed in the thirteenth section of the Act of March 3d, 1851. *Swat v. United States*, 230.

MERITORIOUS SERVICES.

Ordinary grants and those for meritorious services are governed by the same principles and regulations. *Teschmacher v. United States*, 28.

MESNE CONVEYANCE.

Although the description of the land in mesne conveyances may be vague and uncertain, parol evidence may be admitted to cure the defect. *Martin v. United States*, 146.

MISSIONS.

See GOVERNOR.

OCCUPATION.

See SETTLEMENT.

The non-production of a grant does not affect the validity of the claim, the loss of the grant being proved, and long and notorious occupation of the land established. *United States v. Castro*, 125.

Where no grant either perfect or inchoate was made, nor any promise given that a grant would be made, mere occupation by the petitioner pending his application for the land does not constitute a valid claim. *Romero et al. v. United States*, 219.

Where the archives contain no [evidence or trace of the existence of a grant, the Court will demand the fullest and most satisfactory proofs of possession and occupation during the existence of the former Government, under a notorious and undisputed claim of title, and clear and indubitable evidence of the genuineness of the grant produced. *United States v. Polack*, 284.

An inchoate title followed by juridical possession presents an equity which the United States are bound to respect. *United States v. Enright*, 239. See *Pico v. United States*, 188.

POSSESSION

See OCCUPATION.

POCO MAS O MENOS.

Where the description contained in a grant and the circumstances of the case justify the belief that the intention was to grant all the land within the boundaries named, then the words "*poco mas ó menos*" (a little more or less) must be construed as operative to pass to the grantee such fractional part of a league as may be found in excess of the quantity named in the grant. *United States v. Estudillo*, 204. See *United States v. Foscat*, 211.

PROJET OF THE TREATY.

See LAND.

QUANTITY.

The limitation of quantity in the conditions of a grant must govern, and the claimant confined to the precise quantity named. *Marsh v. United States*, 301.

A claim is valid for all the land within the boundaries shown by the *diseño*, and is not to be restricted to the quantity named in the grant, where it appears that the limitation as to quantity is clearly inconsistent with the plain intent of the grantor and evidently the result of a clerical error. *United States v. Pacheco*, 150.

SEGREGATION.

See SEVERANCE.

SERVICES.

See MERITORIOUS SERVICES.

SETTLEMENT.

The time for making a settlement on the lands granted is limited to one year. The danger from savages before and after the grant is no excuse for not complying with that condition. *United States v. Fremont*, 20.

SEVERANCE FROM PUBLIC DOMAIN.

It is a sufficient severance from the public domain when the grant itself designates by unmistakable natural boundaries the limits of the district within which it is to be located, and where the particular land granted is specified by name. *United States v. Fremont*, 20.

The objection that the land claimed was not segregated from the public domain may be removed by further testimony. *Vallejo v. United States*, 174. See *Mesa v. United States*, 66.

SURVEY.

See BOUNDARIES.

SUTTER GRANTS.

Cases adjudicated under the Sutter grant. *United States v. Murphy*, 154; *United States v. Rose*, 197; *United States v. Chama*, 155; and *Bennitz v. United States*, 104.

THIRD PARTIES.

Parties claiming adverse interests cannot intervene and obtain an adjudication upon their conflicting titles. *Martin v. United States*, 146.

TITLE.

To constitute a definitively valid or complete title, two things are necessary—first, a concession by the Governor; and secondly, the approval by the Territorial Deputation, or in the event of their refusal by the Supreme Government. *United States v. Cruz Cervantes*, 9.

WAR.

See LAND.



ERRATA IN DECISIONS.

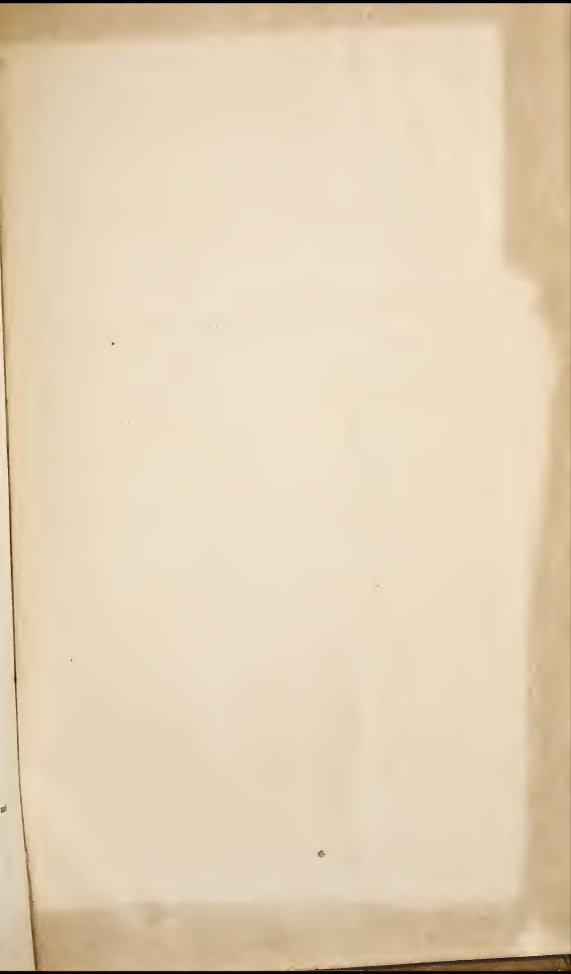
Page 282. United States vs. Bennett. At the time the original decree was drafted and endorsed in this case by the District Attorney as correct, P. De la Torre had not yet been appointed United States Attorney.

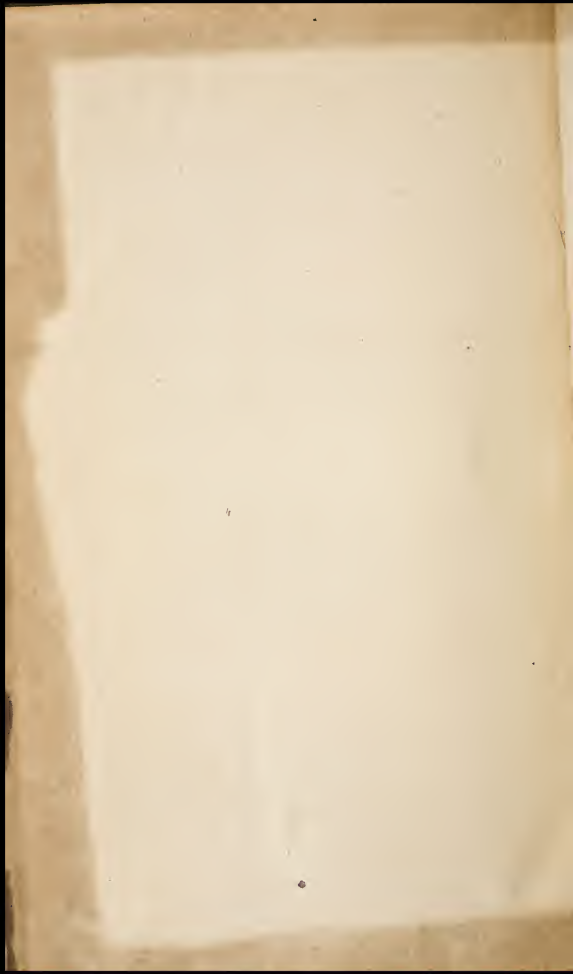
Page 219. Instead of "appealed by the United States," read "appealed by plaintiffs."

IN APPENDIX.

- No. 2. After granted, insert "in 1820 or 1821 by P. V. de Sola, confirmed by José Castro, Nov. 26th, 1835, and by the Territorial Deputation."
- No. 3. After Archibald, insert "A."
- No. 9. Insert "appeal" before dismissed.
- No. 29. After Mariano Castro, insert "Alcalde."
- No. 31. Instead of 1846, insert "1836."
- No. 41. After for, insert "Suey in San Luis Obispo County."
- No. 42. After for, insert "Arroyo de la Laguna in Santa Clara County."
- No. 46. Included in No. 5.
- No. 62. After 1835, insert "by José Castro who had become Political Chief."
- No. 67. For Maria Antonio, read "Maria Antonia."
- No. 76. Instead of 1844, insert "1834."
- No. 83. Instead of Santa Clara, insert "Alameda."
- No. 84. After Herrera, insert "one and."
- No. 87. After league, insert "and augmentation of three leagues."
- No. 103. After for, insert "Alhion Rancho."
- No. 104. Insert 1838 instead of "1835."
- No. 125. Read Mannel Micheltorena for Juan B. Alvarado, and Juan B. Alvarado for Mannel Micheltorena.
- No. 153. After 1822, insert "by P. V. de Sola and June 10th, 1823."
- No. 161. After Marquinas, insert "Viceroy of New Mexico."
- No. 166. Containing 1,515,197 acres.
- No. 191. After 1835, insert by José Castro."
- No. 212. Instead of October 13th, 1835, insert "December 21st, 1844."
- No. 229. After 1833, insert "by N. Gutierrez."
- No. 237. After Vallejo, insert "Military Commandant of the frontiers of the North."
- No. 250. Strike out granted in 1833, and insert after pueblo of San Francisco "constituted under an Act of the Territorial Deputation of Nov. 3d, 1834."
- No. 251. After Iturbide, insert "under a decree of the thirty-first of February, 1822, passed by the Provisional Congress of Mexico in consideration of services rendered by Augustine Iturbide in the revolution."
- No. 253. After 1843, insert "by Manuel Micheltorena and April 20th, 1846."
- No. 257. Same title as No. 236.
- No. 294. Instead of 1845, insert "1841."
- No. 297. After José Castro, insert "as Prefect."

- No. 310. After Sanchez, insert "Commander of the Presidio of San Francisco."
 No. 323. For Carnero, read "Carneros."
 No. 390. For Aguila, read "Aguilar."
 No. 372. After Noriega, insert "Military Commandant."
 No. 398. After 1822, insert "by P. V. de Sola."
 No. 409. After Noriega, insert "Military Commandant."
 No. 422. After Los Angeles, insert "founded under Governor Felipe de Neve in 1881. Possession given by Pedro Fajes, Sept. 4th, 1786, declared capital of California by Act of May 23d, 1835."
 No. 430. Instead of 1847, insert "1837."
 No. 433. Containing 22,193.50 acres.
 No. 434. Containing 13,316.10 acres.
 No. 445. For Voca, read "Boca."
 No. 456. For Sausal, read "Sansal."
 No. 463. This claim is part of Jurupa No. 361.
 No. 470. Instead of J. Figueroa, insert "J. J. Arrillaga."
 No. 478. Instead of 1831, insert "1834." Instead of Juan P. Alvarado, insert "José Figueroa."
 No. 487. After Carrillo, insert "Alcalde of Los Angeles."
 No. 502. For Puente, read "Paente."
 No. 521. For Arguisola, read "Anguisola."
 No. 524. For Manuel Micheltorena, read "Juan B. Alvarado," and for Juan B. Alvarado, read "Manuel Micheltorena."
 No. 531. After 1820, insert "by P. V. de Sola."
 No. 554. After José Castro, insert "as Prefect."
 No. 557. After 1834, insert "by José Figueroa," and instead of José Figueroa, insert "Pio Pico."
 No. 592. For Hames, read "Harnes."
 No. 603. After Sanchez, insert "Justice of the Peace."
 No. 607. After José Castro, insert "as Prefect."
 No. 617. After José Castro, insert "as Prefect."
 No. 619. After Castro, insert "Prefect of the Second District."
 No. 634. After 1836, insert "by N. Gutierrez."
 No. 635. For Borgas, read "Bargas," and after Estrada, read "Prefect of the First District."
 No. 641. After José Castro, insert "as Commandant General."
 No. 650. Insert 1835 in the place of "1845."
 No. 653. After by, insert "the viceroyalty of Spain and in 1835 by."
 No. 679. After Estrada, insert "Prefect of the First District."
 No. 687. After Castro, insert "as Lieutenant Colonel."
 No. 696. After Rodriguez, insert "Alcalde."
 No. 746. See errata to No. 2.
 No. 748. Same title as in No. 161.
 No. 750. See errata to No. 2.
 No. 753. After José Castro, insert "as Prefect."
 No. 765. Same title as in No. 4.
 No. 768. After Berreyesa, insert "Justice of the Peace."
 No. 770. Same title as in No. 173.
 No. 778. Instead of 1848, insert "1845."
 No. 786. After Vallejo, insert "Military Commandant of the Northern Frontier."
 No. 795. After Castro, insert "Prefect."
 No. 798. This claim is part of Bosquejo, No. 182.
 No. 806. After Carrillo, insert "Justice of the Peace."
 In Index to Claimants, page 126, last line, for Borgas, read "Bargas."
 Page 128, second and third line from bottom, substitute "y Carillo" for "y Lataillade, and vice versa.









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1847*

Zanussi and S.

